

HOUSE RECORD

Second Year of the 160th General Court Calendar and Journal of the 2008 Session

Vol. 30

Concord, N.H.

Thursday, May 15, 2008

No. 41

HOUSE JOURNAL No. 15 (cont.)

Wednesday, May 14, 2008

RECESS

Rep. Wallner moved that the House adjourn.
Adopted.

HOUSE JOURNAL No. 16

Thursday, May 15, 2008

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by the member from Concord, Representative Robert Williams.

Prayer for Discernment

Thomas a Kempis

Grant us, O Lord, to know what is worth knowing,
to love what is worth loving,
to praise what delights You most,
to value what is precious in Your sight,
to hate what is offensive to You.

Do not let us judge by what we see,
nor pass sentence according to what we hear,
but to judge rightly between things that differ,
and above to search out and to do what pleases You.
Amen.

Rep. Norman Major, member from Plaistow, led the Pledge of Allegiance.

The National Anthem was sung by the member from Canterbury, Representative Frank Tupper.

LEAVES OF ABSENCE

Reps. Peter Cote, DeChane, Donovan, Drisko, Heald, Humphries, Stephen Johnson, Lisle, Moran and Pearson, the day, illness.

Reps. Ahlgren, Janet Allen, Baroody, Barry, Beauchesne, Benn, Bouchard, Boyce, Jennifer Brown, Butler, Cali-Pitts, Campbell, Claire Clarke, Coughlin, Daniels, DeJoie, Stephanie Eaton, Robert Elliott, Espieffs, Estes, Fletcher, Greco, Hackel, Harvey, Hebert, Hinkle, Hubbard, Hutchinson, Jean, John Kelley, Sally Kelly, John Knowles, Mary Ann Knowles, Levesque, Lovett, Lund, Matarazzo, Evalyn Merrick, Scott Merrick, Merrow, Nedeau, Nordgren, Nowe, O'Connell, Owen, Plifka, Powers, Reeves, Rochette, Trinka Russell, Serlin, Sysyn, Tobin, Ulery, Vachon, Weed and Weyler, the day, important business.
Rep. Guthrie, the day, illness in the family.

INTRODUCTION OF GUESTS

Members and teachers of the fourth grade class from Jennie Blake School, guests of the Hill delegation.

CLERK'S NOTE

When less than two-thirds of the elected membership is present, Part II, Article 20 of the state constitution requires the assent of two-thirds of those present and voting to render their acts and proceedings valid.

REGULAR CALENDAR – SPECIAL ORDERS

SB 482, relative to ethical standards for volunteer service in the executive branch. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Elizabeth S. Hager for Legislative Administration: Our committee has been working hard for two years on this lobbyist/ethics bill. We believe this version of the bill addresses concerns of the Secretary of State and adds a provision requested by the Legislative Ethics Committee. It is an important change to current problems with the law. Vote 10-0.

Amendment (1725h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to lobbyist registration, executive branch ethics, volunteer public service, and legislative financial disclosure forms.

Amend the bill by replacing all after the enacting clause with the following:

1 Lobbyist Registration; Registration Required. RSA 15:1, I is repealed and reenacted to read as follows:

I.(a) The following persons shall register as lobbyists with the secretary of state:

(1) Any person who works as an independent contractor or who provides services for a fee for another to represent the other for the purposes specified in paragraph II including, but not limited to, an attorney, or a legislative or government relations representative; and

(2) Any person who is an employee of any other person or employer, and who works in a representative capacity exclusively for the purposes specified in paragraph II.

(b) Each person described in subparagraphs (a)(1) and (2) shall register prior to engaging in the activities specified in paragraph II. Each registration shall report the existence of a relationship between a single client and either a single lobbyist or a partnership, firm, or corporation with one or more partners, members, or employees of a firm acting as a lobbyist.

2 Expiration Date. Amend RSA 15:1, IV to read as follows:

IV. All registrations required under this section shall expire on December [4] **31**.

3 New Paragraph; Exclusions From Requirements. Amend RSA 15:1 by inserting after paragraph IV the following new paragraph:

V. The following communications are excluded from the regulation imposed by this chapter and shall not be considered in a determination of whether a person is required to register and report as a lobbyist:

- (a) Public testimony before a legislative committee or sub-committee;
- (b) Public testimony before any entity subject to RSA 91-A, the right-to-know law;
- (c) A written document filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;
- (d) Communication made by a public official acting in the public official's official capacity;
- (e) Communication made by a representative of a media organization if the purpose of the communication is gathering or disseminating news and information to the public;
- (f) Communication made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, the internet, or other medium of mass communication;
- (g) Communication made in writing which becomes a public record subject to the provisions of RSA 91-A, the right-to-know law, provided in response to a written request by a legislative or executive branch official; and
- (h) Attendance or participation in executive and legislative branch task forces, work groups, stakeholder groups, and other similar meetings which are not subject to RSA 91-A, provided that, prior to or concurrent with the convening of any such group or meeting, the convening authority files with the secretary of state a statement listing the subject matter, participants, and anticipated duration of the group or meeting and provides a copy to the participants. The secretary of state shall make available a form to effectuate the purpose of this filing requirement.

4 Lobbyist Statements. Amend RSA 15:6, II to read as follows:

II. Lobbyists shall file statements no later than the ~~[second Friday]~~ **last Wednesday** of each ~~[month]~~ **January, April, July, and October** covering all fees received and expenditures, contributions, honorariums, or expense reimbursements made ~~[during the previous month,]~~ **since the last required filing**, from fees received at any time from a lobbying client or employer or from funds otherwise provided by the lobbyist, partnership, firm, or corporation, or from the client or employer.

5 Lobbyist Statements. Amend RSA 15:6, V(f)-(h) to read as follows:

- (f) ~~[For each political contribution made that is reportable pursuant to RSA 664:~~
 - ~~(1) The name of the candidate.~~
 - ~~(2) The office the candidate is seeking.~~
 - ~~(3) The value of the contribution.~~
 - ~~(4) If the contribution is an in-kind contribution, a brief description of the contribution.~~

~~(g)~~ For all expenditures for salaries, benefits, support staff, and office expenses, related directly or indirectly to lobbying, a statement of the total aggregate expenses for salaries, support staff, and office expenses related directly or indirectly to lobbying shall satisfy the requirement that an itemized statement of these expenses be filed.

~~(h)~~ **(g)** The following statement followed by a line for each person filing the form to sign and date the form: "I have read RSA 15[, RSA 15-B, and RSA 664] and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief." ~~[This statement shall be made under oath before a notary public or justice of the peace.]~~

6 Gifts; Exclusion From Definition. Amend RSA 15-B:2, V(c)(5) and (6) to read as follows:

- (5) Objects **or services** which primarily serve an informational purpose provided in the ordinary course of business, such as reports, books, maps, or charts.

(6) Money in any form, an object, or an intangible thing **or service** of economic value, where the donor's act of giving is purely private and personal in nature and the money, object, or intangible thing **or service** of economic value would have been given and received even if the person were not an elected official, public official, public employee, constitutional official, or legislative employee.

7 New Subparagraph; Definition of Gift; Exclusion Added. Amend RSA 15-B:2, V(c) by inserting after subparagraph (12) the following new subparagraph:

(13) Information or advice concerning any state law or rule, any legislation pending or proposed before the general court, or any pending or proposed administrative rule.

8 Executive Branch; Code of Ethics; Appointee and Volunteer Service. RSA 21-G:25 is repealed and reenacted to read as follows:

21-G:25 Ethical Standards for Appointee and Volunteer Public Service. Appointee and volunteer public service within the executive branch is an honorable tradition that should be encouraged and maintained. Appointees and volunteers shall not use such public service, directly or indirectly:

- I. For personal financial gain; or
- II. To facilitate nonpublic communications with executive branch officials for the purpose of promoting or advancing any matter on behalf of themselves, their employers or business associates, or any other third party.

9 Purpose; Financial Disclosure. The general court finds that many public spirited citizens perform volunteer service for the state each year under circumstances where their service does not create any appreciable opportunity to influence the setting of public policy, the expenditure of state funds, or the selection of vendors for the state. Recognizing that the purpose of financial disclosure is to ensure the public has access to information about the financial interests of those who act on the public's behalf when setting public policy, spending state funds, or choosing vendors to do work for the state, requiring volunteers who do not perform such actions to file statements of financial interests does not advance the purpose of the statute and may chill volunteerism. The general court intends to exempt from financial disclosure requirements those individuals who serve the state solely in a volunteer capacity and whose service does not afford any appreciable opportunity to influence public policy or spending, including but not limited to individuals who assist with search and rescue, teach hunter safety, work on recreational trails, or assist with the annual Easter egg hunt.

10 Financial Disclosure; Filing. Amend RSA 15-A:3 to read as follows:

15-A:3 Persons Required to File.

I. The following persons shall file a statement of financial interests as required by this chapter:

~~[I.]~~ **(a)** All candidates who file for state or county office.

~~[II.]~~ **(b)** All persons filing an acceptance of nomination form for state or county office.

~~[III.]~~ **(c)** Every person appointed by the governor, governor and council, president of the senate, or the speaker of the house of representatives to any board, commission, committee, board of directors, authority, or equivalent state entity whether regulatory, advisory, or administrative in nature.

~~[IV.]~~ **(d)** All agency heads.

~~[V.]~~ **(e)** Any public official designated, due to the responsibilities of the position, by the agency head.

~~[VI.]~~ **(f)** The secretary of state and the treasurer, and any of their subordinates designated, due to the responsibilities of the position, by the secretary of state or treasurer.

~~[VII.]~~ **(g)** All persons elected to state or county office, and all persons appointed to such elective office to fill a vacancy; and

~~[VIII.]~~ **(h)** Any person, not employed by or working under contract for the state, who is acting on behalf of the governor or an agency while engaged in state business.

II.(a) Any person who is otherwise subject to the filing requirements of paragraph I (h) shall be exempt from filing a statement of financial interests provided the head of the executive branch entity for whom the individual is volunteering certifies in a public register of volunteers, to be maintained by the secretary of state, that the volunteer's work for the state:

(1) Does not directly or indirectly influence the setting of public policy;
(2) Does not directly or indirectly influence decisions on how state funds will be expended; and
(3) Does not directly or indirectly influence the selection of vendors for the state.

(b) The secretary of state shall establish a public register of volunteers for the state that shall include the name and town or city of residence of the volunteer and the executive branch entity for whom the volunteer work is done. The name and residence of exempt volunteers shall not be listed for volunteers who provide service occurring at a single event that does not exceed one day in duration, provided the head of the executive branch entity accepting the volunteer service submits a brief description of the event and an estimate of the number of volunteers to the secretary of state for inclusion in the register.

(c) The head of any executive branch entity that accepts volunteer work shall cause a list of volunteers who qualify for this exemption to be certified to the secretary of state. An annual certification shall be submitted not later than the last Wednesday in January listing all exempt volunteers who are expected to volunteer during that calendar year. A certification shall be submitted no later than the last Wednesday of each month certifying all new exempt volunteers who started service with that entity during the previous month.

III. The filing of a financial disclosure form by an elected member of the house of representatives or senate pursuant to the guidelines enforced by the legislative ethics committee under RSA 14-B, shall satisfy the requirement for filing of a statement of financial interest pursuant to this chapter.

11 New Paragraph; Legislative Ethics; Filing of Forms. Amend RSA 14-B:3 by inserting after paragraph III the following new paragraph:

IV. The committee shall review all financial disclosure forms required by ethics guidelines and shall place the completed forms on file in the office of the secretary of state for purposes of the requirements of RSA 15-A, in accordance with the filing deadline established under this chapter.

12 Executive Branch Ethics Committee; Appointments. Amend RSA 21-G:29, VI to read as follows:

VI. Committee members shall serve terms of 3 years and until their successors are appointed and qualified. However, initially, the governor shall nominate one member for a one-year term, one member for a 2-year term and one member for a 3-year term; the secretary of state shall nominate one member for a 2-year term, and one member for a 3-year term; the treasurer shall nominate one member for a one-year term and one member for a 2-year term. Initial nominations to the committee shall be made no later than 90 days after the effective date of this section. The initial appointments shall begin on July 1, 2006 and end on June 30 of the appropriate year. Vacancies shall be filled for the remainder of any unexpired term. During their term of appointment, members may not hold or campaign for elective office, serve as an officer of any political party or political committee, permit their names to be used in support of or in opposition to any **state or county** candidate or proposition, participate in any way in any **state or county** election campaign, make a contribution as defined in RSA 664:2 to any **state or county** candidate for office or political committee, or act as or assist a lobbyist required to be registered under RSA 15:1.

13 Executive Branch Volunteer List. Each head of an executive branch entity that accepts volunteer work shall cause a list of volunteers providing service to the state on the

effective date of this act who qualify for the exemption set forth in RSA 15-A:3, II to be submitted to the secretary of state within 60 days of the effective date of this act.

14 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill

I. Changes the registration requirements for lobbyists and the frequency and content of the statements required to be filed.

II. Repeals the restriction on simultaneous employment and public service.

III. Exempts certain appointed and volunteer service from the financial disclosure requirements.

IV. Establishes an executive branch public register of volunteers.

V. Changes the appointment criteria for the executive branch ethics committee.

VI. Allows legislative financial disclosure forms to satisfy requirements of RSA 15-A.

Rep. Michael Rollo spoke against.

Amendment failed.

Rep. Hager offered floor amendment (1791h).

Floor Amendment (1791h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to lobbyist registration, executive branch ethics, volunteer public service, and legislative financial disclosure forms.

Amend the bill by replacing all after the enacting clause with the following:

1 Expiration Date. Amend RSA 15:1, IV to read as follows:

IV. All registrations required under this section shall expire on December [4] **31**.

2 New Paragraph; Exclusions From Requirements. Amend RSA 15:1 by inserting after paragraph IV the following new paragraph:

V. The following communications are excluded from the regulation imposed by this chapter and shall not be considered in a determination of whether a person is required to register and report as a lobbyist:

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(b) Public testimony before any entity subject to RSA 91-A, the right-to-know law;

(c) A written document filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(d) Communication made by a public official acting in the public official's official capacity;

(e) Communication made by a representative of a media organization if the purpose of the communication is gathering or disseminating news and information to the public;

(f) Communication made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, the internet, or other media of mass communication;

(g) Communication made in writing which becomes a public record subject to the provisions of RSA 91-A, the right-to-know law, provided in response to a written request by a legislative or executive branch official; and

(h) Attendance or participation in executive and legislative branch task forces, work groups, stakeholder groups, and other similar meetings which are not subject to RSA 91-A, provided that, prior to or concurrent with the convening of any such group or meeting, the convening authority files with the secretary of state a statement listing the subject matter, participants, and anticipated duration of the group or meeting and provides a copy to the participants. The secretary of state shall make available a form to effectuate the purpose of this filing requirement.

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(f) ~~[For each political contribution made that is reportable pursuant to RSA 664:~~

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~~(2) The office the candidate is seeking.~~

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~~(g)~~ For all expenditures for salaries, benefits, support staff, and office expenses, related directly or indirectly to lobbying, a statement of the total aggregate expenses for salaries, support staff, and office expenses related directly or indirectly to lobbying shall satisfy the requirement that an itemized statement of these expenses be filed.

~~(h)~~ **(g)** The following statement followed by a line for each person filing the form to sign and date the form: "I have read RSA 15[, RSA 15-B, and RSA 664] and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief." ~~[This statement shall be made under oath before a notary public or justice of the peace.]~~

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(6) Money in any form, an object, or an intangible thing **or service** of economic value, where the donor's act of giving is purely private and personal in nature and the money, object, or intangible thing **or service** of economic value would have been given and received even if the person were not an elected official, public official, public employee, constitutional official, or legislative employee.

6 New Subparagraph; Definition of Gift; Exclusion Added. Amend RSA 15-B:2, V(b) by inserting after subparagraph (12) the following new subparagraph:

(13) Information or advice concerning any state law or rule, any legislation pending or proposed before the general court, or any pending or proposed administrative rule.

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21-G:25 Ethical Standards for Appointee and Volunteer Public Service. Appointee and volunteer public service within the executive branch is an honorable tradition that should be encouraged and maintained. Appointees and volunteers shall not use such public service, directly or indirectly:

I. For personal financial gain; or

II. To facilitate nonpublic communications with executive branch officials for the purpose of promoting or advancing any matter on behalf of themselves, their employers or business associates, or any other third party.

8 Purpose; Financial Disclosure. The general court finds that many public spirited citizens perform volunteer service for the state each year under circumstances where their service does not create any appreciable opportunity to influence the setting of public policy, the expenditure of state funds, or the selection of vendors for the state. Recognizing that the purpose of financial disclosure is to ensure the public has access to information about the financial interests of those who act on the public's behalf when setting public policy, spending state funds, or choosing vendors to do work for the state, requiring volunteers who

do not perform such actions to file statements of financial interests does not advance the purpose of the statute and may chill volunteerism. The general court intends to exempt from financial disclosure requirements those individuals who serve the state solely in a volunteer capacity and whose service does not afford any appreciable opportunity to influence public policy or spending, including but not limited to individuals who assist with search and rescue, teach hunter safety, work on recreational trails, or assist with the annual Easter egg hunt.

9 Financial Disclosure; Filing. Amend RSA 15-A:3 to read as follows:

15-A:3 Persons Required to File.

I. The following persons shall file a statement of financial interests as required by this chapter:

~~[I.]~~ **(a)** All candidates who file for state or county office.

~~[II.]~~ **(b)** All persons filing an acceptance of nomination form for state or county office.

~~[III.]~~ **(c)** Every person appointed by the governor, governor and council, president of the senate, or the speaker of the house of representatives to any board, commission, committee, board of directors, authority, or equivalent state entity whether regulatory, advisory, or administrative in nature.

~~[IV.]~~ **(d)** All agency heads.

~~[V.]~~ **(e)** Any public official designated, due to the responsibilities of the position, by the agency head.

~~[VI.]~~ **(f)** The secretary of state and the treasurer, and any of their subordinates designated, due to the responsibilities of the position, by the secretary of state or treasurer.

~~[VII.]~~ **(g)** All persons elected to state or county office, and all persons appointed to such elective office to fill a vacancy~~[-and]~~.

~~[VIII.]~~ **(h)** Any person, not employed by or working under contract for the state, who is acting on behalf of the governor or an agency while engaged in state business.

II.(a) Any person who is otherwise subject to the filing requirements of paragraph I (h) shall be exempt from filing a statement of financial interests provided the head of the executive branch entity for whom the individual is volunteering certifies in a public register of volunteers, to be maintained by the secretary of state, that the volunteer's work for the state:

(1) Does not directly or indirectly influence the setting of public policy;

(2) Does not directly or indirectly influence decisions on how state funds will be expended; and

(3) Does not directly or indirectly influence the selection of vendors for the state.

(b) The secretary of state shall establish a public register of volunteers for the state that shall include the name and town or city of residence of the volunteer and the executive branch entity for whom the volunteer work is done. The name and residence of exempt volunteers shall not be listed for volunteers who provide service occurring at a single event that does not exceed one day in duration, provided the head of the executive branch entity accepting the volunteer service submits a brief description of the event and an estimate of the number of volunteers to the secretary of state for inclusion in the register.

(c) The head of any executive branch entity that accepts volunteer work shall cause a list of volunteers who qualify for this exemption to be certified to the secretary of state. An annual certification shall be submitted not later than the last Wednesday in January listing all exempt volunteers who are expected to volunteer during that calendar year. A certification shall be submitted no later than the last Wednesday of each month certifying all new exempt volunteers who started service with that entity during the previous month.

III. The filing of a financial disclosure form by an elected member of the house of representatives or senate pursuant to the guidelines enforced by the

legislative ethics committee under RSA 14-B, shall satisfy the requirement for filing of a statement of financial interest pursuant to this chapter.

10 New Paragraph; Legislative Ethics; Filing of Forms. Amend RSA 14-B:3 by inserting after paragraph III the following new paragraph:

IV. The committee shall review all financial disclosure forms required by ethics guidelines and shall place the completed forms on file in the office of the secretary of state for purposes of the requirements of RSA 15-A, in accordance with the filing deadline established under this chapter.

11 Executive Branch Ethics Committee; Appointments. Amend RSA 21-G:29, VI to read as follows:

VI. Committee members shall serve terms of 3 years and until their successors are appointed and qualified. However, initially, the governor shall nominate one member for a one-year term, one member for a 2-year term and one member for a 3-year term; the secretary of state shall nominate one member for a 2-year term, and one member for a 3-year term; the treasurer shall nominate one member for a one-year term and one member for a 2-year term. Initial nominations to the committee shall be made no later than 90 days after the effective date of this section. The initial appointments shall begin on July 1, 2006 and end on June 30 of the appropriate year. Vacancies shall be filled for the remainder of any unexpired term. During their term of appointment, members may not hold or campaign for elective office, serve as an officer of any political party or political committee, permit their names to be used in support of or in opposition to any ***state or county*** candidate or proposition, participate in any way in any ***state or county*** election campaign, make a contribution as defined in RSA 664:2 to any ***state or county*** candidate for office or political committee, or act as or assist a lobbyist required to be registered under RSA 15:1.

12 Executive Branch Volunteer List. Each head of an executive branch entity that accepts volunteer work shall cause a list of volunteers providing service to the state on the effective date of this act who qualify for the exemption set forth in RSA 15-A:3, II to be submitted to the secretary of state within 60 days of the effective date of this act.

13 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Changes the frequency and content of the statements required to be filed by lobbyists.

II. Repeals the restriction on simultaneous employment and public service.

III. Exempts certain appointed and volunteer service from the financial disclosure requirements.

IV. Establishes an executive branch public register of volunteers.

V. Changes restrictions on members of the executive branch ethics committee.

VI. Allows legislative financial disclosure forms to satisfy requirements of RSA 15-A.

Rep. Hager spoke in favor and yielded to questions.

Rep. Wall yielded to questions.

Rep. Splaine spoke in favor.

On a division vote, 238 members having voted in the affirmative and 9 in the negative, floor amendment (1791h) was adopted by the necessary two-thirds.

Rep. Splaine offered floor amendment 1786h.

Floor Amendment (1786h)

Amend the bill by deleting section 7 and renumbering the original sections 8-13 to read as 7-12, respectively.

AMENDED ANALYSIS

This bill:

I. Changes the frequency and content of the statements required to be filed by lobbyists.

II. Exempts certain appointed and volunteer service from the financial disclosure requirements.

III. Establishes an executive branch public register of volunteers.

IV. Changes the restrictions on members of the executive branch ethics committee.

V. Allows legislative financial disclosure forms to satisfy requirements of RSA 15-A.

Reps. Splaine and Jasper spoke in favor and yielded to questions.

Rep. McEachern spoke in favor.

Rep. McKinney spoke against.

Rep. Rollo spoke against and yielded to questions.

Rep. Splaine requested a roll call; sufficiently seconded.

YEAS 163 NAYS 100

YEAS 163

BELKNAP

Arsenault, Beth
Pilliod, James
Tilton, Franklin

Clark, Charles
Reever, Judith
Wendelboe, Fran

Flanders, Donald
Russell, David

Morrison, Gail
Thomas, John

CARROLL

Bridgham, Robert
Patten, Betsey

Chandler, Gene

Heard, Virginia

Knox, J. David

CHESHIRE

Allen, Peter
Butynski, William
Johnson, Jane
Weber, Lucy

Burrige, Delmar
Chase, William
Parkhurst, Henry

Butcher, Suzanne
Dunn, J. Timothy
Richardson, Barbara

Butterworth, Timothy
Emerson, Susan
Robertson, Timothy

COOS

Hatch, William
Tholl, John Jr

King, Frederick

Remick, William

Stohl, Eric

GRAFTON

Aguiar, James
Friedrich, Carol
Preston, Philip

Andersen, Gene
Gionet, Edmond
Sorg, Gregory

Bulis, Lyle
Mulholland, Catherine
Williams, Burton

Dingman, Vernon III
Pierce, David

HILLSBOROUGH

Batula, Peter
Chase, Claudia
Daler, Jennifer
Emerton, Larry
Graham, John
Holden, Randolph
Kaelin, Michael
Mack, Ron
Mooney, Maureen
Pilotte, Maurice
Shattuck, Gilman
Spratt, Stephen
Winters, Joel

Beck, Catriona
Christiansen, Lars
Day, Russell
Fontas, Jeffrey
Haefner, Robert
Hopper, Gary
Kurk, Neal
Manney, Pamela
O'Brien, Michael Sr
Price, Pamela
Shaw, Barbara
Tahir, Saghir

Bergeron, Jean-Guy
Cote, David
Edwards, Andrew
Gorman, Mary
Hall, Betty
Infantine, William
L'Heureux, Robert
Marshall, Seth
Ober, Lynne
Renzullo, Andrew
Simon, Anthony
Vaillancourt, Steve

Bergin, Peter
Crane, Elenore Casey
Elliott, Nancy
Goyette, Peter
Hogan, Edith
Jasper, Shawn
Long, Patrick
McRae, Karen
Ober, Russell III
Rowe, Robert
Soucy, Connie
Villeneuve, Maurice

MERRIMACK

Anderson, Eric	Boutin, David	Brown, Carole	Ehlers, Eileen
Hess, David	Kjellman, Eleanor	MacKay, James	McMahon, Patricia
	Glynn		
Osborne, Jessie	Richardson, Gary	Tilton, Joy	Webb, Leigh
Wheeler, Deborah			

ROCKINGHAM

Allen, Mary	Baldasaro, Alfred	Bedrick, Jason	Belanger, Ronald
Bettencourt, David	Bishop, Franklin	Borden, David	Cali-Pitts, Jacqueline
Carson, Sharon	Case, Frank	Charron, Gene	Dalrymple, David
Day, Judith	Devine, James	DiFruscia, Anthony	Emiro, Frank
Flanders, John Sr	Garcia, Marilinda	Garrity, James	Gould, Kenneth
Griffin, Mary	Grote, Otto	Ingram, Russell	Introne, Robert
Itse, Daniel	Kappler, Lawrence	Katsakiores, Phyllis	Kepner, Susan
Lister, Charlotte	McEachern, Paul	McKenna, Daniel	Moody, Marcia
Nevins, Christopher	Nord, Susi	Petterson, Don	Priestley, Anne
Quandt, Marshall	Reagan, John	Sanders, Elisabeth	Snow, Richard
Splaine, James	Stiles, Nancy	Weare, Everett	Welch, David
Wells, Roger	Winchell, George		

STRAFFORD

Billian, Deborah	Brennan, William	Brown, Larry	Cyr, James
Perry, Robert	Watson, Robert		

SULLIVAN

Cloutier, John	Converse, Larry	Franklin, Peter	Gagnon, Raymond
Rodeschin, Beverly			

NAYS 100

BELKNAP

Millham, Alida

CARROLL

Buco, Thomas	Cunningham, Howard	Martin, James	Stevens, Stanley
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CHESHIRE

Eaton, Daniel	Hunt, John	Lerandeau, Alfred	Mitchell, Bonnie
Roberts, Kris	Sad, Tara		

COOS

Theberge, Robert

GRAFTON

Almy, Susan	Bleyler, Ruth	Cooney, Mary	Hammond, Lee
Harding, A Laurie	Laliberte, Suzanne	McLeod, Martha	Solomon, Peter

HILLSBOROUGH

Beaulieu, Jane	Brunelle, Michael	Clemons, Jane	Dokmo, Cynthia
----------------	-------------------	---------------	----------------

Essex, David
Hawkins, Ken
Messier, Irene
Rosenwald, Cindy
Spaulding, Jayne

Foster, Linda
Irwin, Anne-Marie
Movsesian, Lori
Schulze, Joan
Sullivan, Daniel

Gargasz, Carolyn
Lasky, Bette
O'Neil, James
Shaw, Kimberly
Sullivan, Francis

Ginsburg, Ruth
Leishman, Peter
Peterson, Andy
Smith, David

MERRIMACK

Baxley, Maureen
DeStefano, Stephen
Hager, Elizabeth
Porter, Margaret
Shurtleff, Stephen
Williams, Robert

Blanchard, Elizabeth
Foose, Robert
Hamm, Christine
Potter, Frances
Tupper, Frank
Yeaton, Charles

Brueggemann, Donald
French, Barbara
Kidder, David
Reardon, Tara
Wallner, Mary

Davis, Frank
Gile, Mary
Lockwood, Priscilla
Ryan, Jim
Walz, Mary

ROCKINGHAM

Abbott, Dennis
Flockhart, Eileen
Katsakiores, George
McKinney, Betsy

Brown, C. Pennington
Gleason, John
Major, Norman
Pantelakos, Laura

Casey, Kimberley
Headd, James
Mann, Maureen
Robertson, Carl

Fesh, Bob
Howard, Doreen
Marsh, Michael
Webber, James

STRAFFORD

Brown, Julie
Hofemann, Roland
Rous, Emma
Srnc, Robert

Browne, Brendon
Kaen, Naida
Schmidt, Peter
Wall, Janet

Burke, Rachel
Rollo, Deanna
Smith, Marjorie

Fargo, Thomas
Rollo, Michael
Spang, Judith

SULLIVAN

Houde, Matthew
Skinder, Carla

Jillette, Arthur Jr

Nielsen, Ellen

Phinizy, James

and floor amendment (1786h) failed lacking the necessary two-thirds.

LAID ON THE TABLE

Rep. Vaillancourt moved that **SB 482**, relative to ethical standards for volunteer service in the executive branch, be laid on the table.

On a division vote, 136 members having voted in the affirmative and 128 in the negative, the motion was adopted.

CLERK'S NOTE

The constitutionally required two-thirds of the membership for action by majority vote was declared present.

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

SB 199, relative to the assessment of property subject to a housing subsidy restriction.

REFER FOR INTERIM STUDY.

Rep. Betsey L. Patten for Municipal and County Government: The Constitution of New Hampshire requires that all property be assessed at market value and RSA 75:1 clarifies that requirement and sets open space" land that is assessed NOT at market value. There are three ways to calculate market value – sales, cost and income. This bill attempts to place property that is subject to "a housing covenant under low-income housing tax credit program" in a category that is NOT market value by defining "income" differently than presently used by assessors. There is a capitalization rate formula in an amendment and the

committee would like to be able to understand the concept and the function and if it is any different from other properties that use the income method. Furthermore, there was no documentation about the impact on the other taxpayers in the municipality and no documentation of any requests for abatement, settlements or property record cards. The committee realizes that there may be a difference in the selling price with the way the government has set up low income housing and the requirements of the state housing authority for 99 year covenant restrictions. The committee has sent at least two assessing issues to the Assessing Standards Board (ASB) for its input prior to implementing changes in the way assessing is done in New Hampshire. The concept of assessing housing subsidies differently is a concept that was broadly presented to the ASB, but not in the detail proposed by the sponsors of this bill. The majority of the committee feels that this is a premature bill and a letter directing the ASB to find a solution and report back to the committee by November 1 has been written. In order to have fair and equitable assessing of the property tax in New Hampshire the committee voted for Interim Study so that the ASB will have the opportunity to address and solve this issue. Vote 12-3. Committee report adopted.

SB 342-FN-L, establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Mary R. Cooney for Municipal and County Government: The shortage of workforce housing poses a threat to the state's economic growth. A balanced supply of housing serves the statewide public interest. This bill defines affordable housing, multi-family rental housing and what constitutes opportunities for the development of workforce housing. This bill incorporates the provisions of the earlier House bill passed which codified the court case of Britton vs. Town of Chester but adds a few sections to address concerns of the regional planning commissions. Specifically, the appeal process is more clearly defined to address the concern over what is commonly referred to as "the builder's remedy" or a judgment that allows construction of the proposed development granted by the court. This bill also now addresses the concern that a workforce housing development remain affordable for a certain length of time as negotiated by the municipality and the developer. Other changes involved rewording of phrases to clarify where and what type of housing could be designated in different residential zones. This bill is an improvement on the previous House bill and should be passed. Vote 11-3.

Amendment (1657h)

Amend the bill by replacing all after the enacting clause with the following:

1 Findings and Statement of Purpose.

I. The state of New Hampshire is experiencing a shortage of housing that is affordable to working households. This housing shortage poses a threat to the state's economic growth, presents a barrier to the expansion of the state's labor force, undermines state efforts to foster a productive and self-reliant workforce, and adversely affects the ability of many communities to host new businesses.

II. Achieving a balanced supply of housing, which requires increasing the supply of workforce housing, serves a statewide public interest, and constitutes an urgent and compelling public policy goal.

III. The purpose of this act is to clarify the requirements of Britton v. Chester (134 N.H. 439 (1991)) and to provide additional guidance for complying with those requirements to local officials and the public.

IV. Section 2 of this act is intended to provide the maximum feasible flexibility to municipalities in exercising the zoning powers under RSA 674 consistent with their obligation to provide reasonable opportunities for the development of workforce housing, and

is not intended to create a system of statewide land use regulation or a statewide zoning process.

2 New Subdivision; Workforce Housing Opportunities. Amend RSA 674 by inserting after section 57 the following new subdivision:

Workforce Housing

674:58 Definitions. In this subdivision:

I. “Affordable” means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household’s gross annual income.

II. “Multi-family housing” for the purpose of workforce housing developments, means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.

III. “Reasonable and realistic opportunities for the development of workforce housing” means opportunities to develop economically viable workforce housing within the framework of a municipality’s ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic. If the ordinances and regulations of a municipality make feasible the development of sufficient workforce housing to satisfy the municipality’s obligation under RSA 674:59, and such development is not unduly inhibited by natural features, the municipality shall not be in violation of its obligation under RSA 674:59 by virtue of economic conditions beyond the control of the municipality that affect the economic viability of workforce housing development.

IV. “Workforce housing” means housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. “Workforce housing” also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

674:59 Workforce Housing Opportunities.

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.

II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

III. A municipality’s existing housing stock shall be taken into consideration in determining its compliance with this section. If a municipality’s existing housing stock is

sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.

IV. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

674:60 Procedure.

I. Any person who applies to a land use board for approval of a development that is intended to qualify as workforce housing under this subdivision shall file a written statement of such intent as part of the application. The failure to file such a statement shall constitute a waiver of the applicant's rights under RSA 674:61, but shall not preclude an appeal under other applicable laws. In any appeal where the applicant has failed to file the statement required by this paragraph, the applicant shall not be entitled to a judgment on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinances or regulations.

II. If a land use board approves an application to develop workforce housing subject to conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4, I(c)(1). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.

III. Upon receiving notice of conditions and restrictions under paragraph II, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the board, which shall not be less than 30 days.

(a) Upon receipt of such evidence from the applicant, the board shall allow the applicant to review the evidence at the board's next meeting for which 10 days' notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the board may also receive and consider evidence from other sources.

(b) The board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.

(c) Subject to subparagraph (d), the board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the board, in which case it may issue its final decision any time after the expiration of the period.

(d) If an applicant notifies the board in writing at any time that the applicant accepts the conditions and restrictions of approval, the board may issue its final decision without further action under this paragraph.

674:61 Appeals.

I. Any person who has filed the written notice required by RSA 674:60, and whose application to develop workforce housing is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the superior court under RSA 677:4 or RSA 677:15 seeking permission to develop the proposed workforce housing. The petition to the court shall set forth how the denial is due to the municipality's failure to comply with the workforce housing requirements of RSA 674:59 or how the conditions or restrictions of approval otherwise violate such requirements.

II. A hearing on the merits of the appeal shall be held within 6 months of the date on which the action was filed unless counsel for the parties agree to a later date, or the court so orders for good cause. If the court determines that it will be unable to meet this requirement, at the request of either party it shall promptly appoint a referee to hear the appeal within 6 months. Referees shall be impartial, and shall be chosen on the basis of qualifications and experience in planning and zoning law.

III. In the event the decision of the court or referee grants the petitioner a judgment that allows construction of the proposed development or otherwise orders that the proposed development may proceed despite its nonconformance with local regulations, conditions, or restrictions, the court or referee shall direct the parties to negotiate in good faith over assurances that the project will be maintained for the long term as workforce housing. The court or referee shall retain jurisdiction and upon motion of either party affirming that negotiations are deadlocked, the court or referee shall hold a further hearing on the appropriate term and form of use restrictions to be applied to the project.

3 Planning and Zoning; Declaration of Purpose. Amend RSA 672:1, III-e to read as follows:

III-e. All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing[~~including so-called cluster development and the development of multi-family structures, should~~] **shall** not be prohibited or **unreasonably** discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;

4 Effective Date. This act shall take effect July 1, 2009.
Amendment adopted.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Beaulieu spoke against.
Rep. Cooney spoke in favor.

MOTION TO LAY ON THE TABLE

Rep. Boutin moved that **SB 342-FN-L**, establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing, be laid on the table.

On a division vote, 82 members having voted in the affirmative and 181 in the negative, the motion failed.

The question now being adoption of the committee report of Ought to Pass with Amendment.
Rep. Daniel Eaton requested a roll call; sufficiently seconded.

YEAS 172 NAYS 93

YEAS 172

BELKNAP

Arsenault, Beth
Reever, Judith

Millham, Alida
Thomas, John

Morrison, Gail
Wendelboe, Fran

Pilliod, James

CARROLL

Bridgham, Robert
Knox, J. David

Buco, Thomas

Cunningham, Howard

Heard, Virginia

CHESHIRE

Allen, Peter	Burridge, Delmar	Butcher, Suzanne	Butterworth, Timothy
Butynski, William	Chase, William	Dunn, J. Timothy	Eaton, Daniel
Lerandeau, Alfred	Mitchell, Bonnie	Parkhurst, Henry	Richardson, Barbara
Roberts, Kris	Robertson, Timothy	Sad, Tara	Weber, Lucy

COOS

Hatch, William	Remick, William	Theberge, Robert
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GRAFTON

Aguiar, James	Almy, Susan	Andersen, Gene	Bleyler, Ruth
Cooney, Mary	Friedrich, Carol	Hammond, Lee	Harding, A Laurie
Laliberte, Suzanne	McLeod, Martha	Mulholland, Catherine	Pierce, David
Preston, Philip	Solomon, Peter		

HILLSBOROUGH

Beck, Catriona	Bergin, Peter	Brunelle, Michael	Chase, Claudia
Clemons, Jane	Cote, David	Crane, Elenore Casey	Daler, Jennifer
Edwards, Andrew	Emerton, Larry	Essex, David	Fontas, Jeffrey
Foster, Linda	Ginsburg, Ruth	Gorman, Mary	Holden, Randolph
Infantine, William	Irwin, Anne-Marie	Kaelin, Michael	Kurk, Neal
Lasky, Bette	Leishman, Peter	Marshall, Seth	Movsesian, Lori
O'Brien, Michael Sr	O'Neil, James	Peterson, Andy	Pilotte, Maurice
Price, Pamela	Rosenwald, Cindy	Schulze, Joan	Shattuck, Gilman
Shaw, Barbara	Shaw, Kimberly	Spratt, Stephen	Sullivan, Daniel
Sullivan, Francis	Winters, Joel		

MERRIMACK

Baxley, Maureen	Blanchard, Elizabeth	Brown, Carole	Brueggemann, Donald
Davis, Frank	DeStefano, Stephen	Ehlers, Eileen	Foose, Robert
French, Barbara	Gile, Mary	Hager, Elizabeth	Hamm, Christine
Hess, David	Kidder, David	Lockwood, Priscilla	MacKay, James
McMahon, Patricia	Osborne, Jessie	Porter, Margaret	Potter, Frances
Reardon, Tara	Richardson, Gary	Ryan, Jim	Shurtleff, Stephen
Tilton, Joy	Tupper, Frank	Wallner, Mary	Walz, Mary
Wheeler, Deborah	Williams, Robert	Yeaton, Charles	

ROCKINGHAM

Abbott, Dennis	Borden, David	Brown, C. Pennington	Cali-Pitts, Jacqueline
Casey, Kimberley	Devine, James	DiFruscia, Anthony	Flanders, John Sr
Flockhart, Eileen	Griffin, Mary	Grote, Otto	Howard, Doreen
Kappler, Lawrence	Kepner, Susan	Mann, Maureen	McEachern, Paul
McKenna, Daniel	Moody, Marcia	Nevins, Christopher	Nord, Susi
Pantelakos, Laura	Petterson, Don	Priestley, Anne	Reagan, John
Robertson, Carl	Snow, Richard	Splaine, James	Webber, James

STRAFFORD

Billian, Deborah	Brennan, William	Brown, Julie	Brown, Larry
Browne, Brendon	Burke, Rachel	Cyr, James	Domingo, Baldwin
Fargo, Thomas	Hofemann, Roland	Kaen, Naida	Rollo, Deanna
Rollo, Michael	Rous, Emma	Schmidt, Peter	Smith, Marjorie

Spang, Judith

Srnec, Robert

Wall, Janet

Watson, Robert

SULLIVAN

Cloutier, John
Gottling, Suzanne
Phinizy, James

Converse, Larry
Houde, Matthew
Skinder, Carla

Franklin, Peter
Jillette, Arthur Jr

Gagnon, Raymond
Nielsen, Ellen

NAYS 93

BELKNAP

Clark, Charles

Flanders, Donald

Russell, David

Tilton, Franklin

CARROLL

Chandler, Gene

Martin, James

Patten, Betsey

Stevens, Stanley

CHESHIRE

Emerson, Susan

Hunt, John

Johnson, Jane

COOS

King, Frederick

Stohl, Eric

Tholl, John Jr

GRAFTON

Bulis, Lyle
Williams, Burton

Dingman, Vernon III

Gionet, Edmond

Sorg, Gregory

HILLSBOROUGH

Batula, Peter
Day, Russell
Goyette, Peter
Hawkins, Ken
L'Heureux, Robert
McRae, Karen
Ober, Russell III
Smith, David
Vaillancourt, Steve

Beaulieu, Jane
Dokmo, Cynthia
Graham, John
Hogan, Edith
Long, Patrick
Messier, Irene
Renzullo, Andrew
Soucy, Connie
Villeneuve, Maurice

Bergeron, Jean-Guy
Elliott, Nancy
Haefner, Robert
Hopper, Gary
Mack, Ron
Mooney, Maureen
Rowe, Robert
Spaulding, Jayne

Christiansen, Lars
Gargasz, Carolyn
Hall, Betty
Jasper, Shawn
Manney, Pamela
Ober, Lynne
Simon, Anthony
Tahir, Saghir

MERRIMACK

Anderson, Eric

Boutin, David

Kjellman, Eleanor
Glynn

Webb, Leigh

ROCKINGHAM

Allen, Mary
Bettencourt, David
Charron, Gene
Fesh, Bob
Gould, Kenneth
Itse, Daniel
Major, Norman
Quandt, Matthew
Wells, Roger

Baldasaro, Alfred
Bishop, Franklin
Dalrymple, David
Garcia, Marilinda
Headd, James
Katsakiores, George
Marsh, Michael
Sanders, Elisabeth
Winchell, George

Bedrick, Jason
Carson, Sharon
Day, Judith
Garrity, James
Ingram, Russell
Katsakiores, Phyllis
McKinney, Betsy
Weare, Everett

Belanger, Ronald
Case, Frank
Emiro, Frank
Gleason, John
Introne, Robert
Lister, Charlotte
Quandt, Marshall
Welch, David

STRAFFORD

Perry, Robert

SULLIVAN

Rodeschin, Beverly
and the committee report was adopted.
Ordered to third reading.

REMOVED FROM THE TABLE

Rep. Michael Rollo moved that **SB 482**, relative to ethical standards for volunteer service in the executive branch, be removed from the table.
Adopted.

CLERK'S NOTE

When less than two-thirds of the elected membership is present, Part II, Article 20 of the state constitution requires the assent of two-thirds of those present and voting to render their acts and proceedings valid.

RECONSIDERATION

Having voted on the prevailing side, Rep. Hager moved that the House reconsider its action whereby it failed to adopt floor amendment (1786h) on **SB 482**, relative to ethical standards for volunteer service in the executive branch.

Rep. Hager spoke in favor.

On a division vote, 253 members having voted in the affirmative and 8 in the negative, the motion was adopted by the necessary two-thirds.

The question now being adoption of floor amendment (1786h).

Rep. Michael Rollo spoke in favor and requested a roll call; sufficiently seconded.

YEAS 256 NAYS 6

YEAS 256

BELKNAP

Arsenault, Beth
Morrison, Gail
Thomas, John

Clark, Charles
Pilliod, James
Tilton, Franklin

Flanders, Donald
Reever, Judith
Wendelboe, Fran

Millham, Alida
Russell, David

CARROLL

Bridgham, Robert
Heard, Virginia

Buco, Thomas
Knox, J. David

Chandler, Gene
Patten, Betsey

Cunningham, Howard
Stevens, Stanley

CHESHIRE

Allen, Peter
Butynski, William
Emerson, Susan
Mitchell, Bonnie
Robertson, Timothy

Burridge, Delmar
Chase, William
Hunt, John
Parkhurst, Henry
Sad, Tara

Butcher, Suzanne
Dunn, J. Timothy
Johnson, Jane
Richardson, Barbara
Weber, Lucy

Butterworth, Timothy
Eaton, Daniel
Lerandean, Alfred
Roberts, Kris

COOS

Hatch, William
Theberge, Robert

King, Frederick
Tholl, John Jr

Remick, William

Stohl, Eric

GRAFTON

Aguiar, James
Bulis, Lyle
Gionet, Edmond
McLeod, Martha
Solomon, Peter

Almy, Susan
Cooney, Mary
Hammond, Lee
Mulholland, Catherine
Sorg, Gregory

Andersen, Gene
Dingman, Vernon III
Harding, A Laurie
Pierce, David
Williams, Burton

Bleyler, Ruth
Friedrich, Carol
Laliberte, Suzanne
Preston, Philip

HILLSBOROUGH

Batula, Peter
Bergin, Peter
Clemons, Jane
Day, Russell
Emerton, Larry
Gargas, Carolyn
Graham, John
Holden, Randolph
Jasper, Shawn
Lasky, Bette
Manney, Pamela
Mooney, Maureen
Ober, Russell III
Rosenwald, Cindy
Shaw, Barbara
Spaulding, Jayne
Tahir, Saghir

Beaulieu, Jane
Brunelle, Michael
Cote, David
Dokmo, Cynthia
Essex, David
Ginsburg, Ruth
Haefner, Robert
Hopper, Gary
Kaelin, Michael
Leishman, Peter
Marshall, Seth
O'Brien, Michael Sr
Pilotte, Maurice
Rowe, Robert
Shaw, Kimberly
Spratt, Stephen
Vaillancourt, Steve

Beck, Catriona
Chase, Claudia
Crane, Elenore Casey
Edwards, Andrew
Fontas, Jeffrey
Gorman, Mary
Hall, Betty
Infantine, William
Kurk, Neal
Long, Patrick
McRae, Karen
O'Neil, James
Price, Pamela
Schulze, Joan
Simon, Anthony
Sullivan, Daniel
Villeneuve, Maurice

Bergeron, Jean-Guy
Christiansen, Lars
Daler, Jennifer
Elliott, Nancy
Foster, Linda
Goyette, Peter
Hogan, Edith
Irwin, Anne-Marie
L'Heureux, Robert
Mack, Ron
Messier, Irene
Ober, Lynne
Renzullo, Andrew
Shattuck, Gilman
Soucy, Connie
Sullivan, Francis
Winters, Joel

MERRIMACK

Anderson, Eric
Brown, Carole
Ehlers, Eileen
Hager, Elizabeth
Kjellman, Eleanor
Glynn
Osborne, Jessie
Richardson, Gary
Tupper, Frank
Wheeler, Deborah

Baxley, Maureen
Brueggemann, Donald
Foose, Robert
Hamm, Christine
Lockwood, Priscilla
Porter, Margaret
Ryan, Jim
Wallner, Mary
Williams, Robert

Blanchard, Elizabeth
Davis, Frank
French, Barbara
Hess, David
MacKay, James
Potter, Frances
Shurtleff, Stephen
Walz, Mary
Yeaton, Charles

Boutin, David
DeStefano, Stephen
Gile, Mary
Kidder, David
McMahon, Patricia
Reardon, Tara
Tilton, Joy
Webb, Leigh

ROCKINGHAM

Abbott, Dennis
Belanger, Ronald
Brown, C. Pennington
Charron, Gene
DiFruscia, Anthony
Flockhart, Eileen
Gould, Kenneth
Ingram, Russell
Katsakiores, George
Mann, Maureen

Allen, Mary
Bettencourt, David
Cali-Pitts, Jacqueline
Dalrymple, David
Emiro, Frank
Garcia, Marilinda
Griffin, Mary
Introne, Robert
Katsakiores, Phyllis
Marsh, Michael

Baldasaro, Alfred
Bishop, Franklin
Case, Frank
Day, Judith
Fesh, Bob
Garritty, James
Grote, Otto
Itse, Daniel
Kepner, Susan
McEachern, Paul

Bedrick, Jason
Borden, David
Casey, Kimberley
Devine, James
Flanders, John Sr
Gleason, John
Howard, Doreen
Kappler, Lawrence
Lister, Charlotte
McKenna, Daniel

McKinney, Betsy
Pantelakos, Laura
Quandt, Matthew
Snow, Richard
Welch, David

Moody, Marcia
Petterson, Don
Reagan, John
Splaine, James
Wells, Roger

Nevins, Christopher
Priestley, Anne
Robertson, Carl
Stiles, Nancy
Winchell, George

Nord, Susi
Quandt, Marshall
Sanders, Elisabeth
Webber, James

STRAFFORD

Billian, Deborah
Burke, Rachel
Hofemann, Roland
Rollo, Michael
Spang, Judith

Brennan, William
Cyr, James
Kaen, Naida
Rous, Emma
Srnc, Robert

Brown, Larry
Domingo, Baldwin
Perry, Robert
Schmidt, Peter
Wall, Janet

Browne, Brendon
Fargo, Thomas
Rollo, Deanna
Smith, Marjorie
Watson, Robert

SULLIVAN

Cloutier, John
Gottling, Suzanne
Phinzy, James

Converse, Larry
Houde, Matthew
Rodeschin, Beverly

Franklin, Peter
Jillette, Arthur Jr
Skinder, Carla

Gagnon, Raymond
Nielsen, Ellen

NAYS 6

BELKNAP

None

CARROLL

None

CHESHIRE

None

COOS

None

GRAFTON

None

HILLSBOROUGH

Hawkins, Ken

Movsesian, Lori

Smith, David

MERRIMACK

None

ROCKINGHAM

Headd, James

Weare, Everett

STRAFFORD

Brown, Julie

SULLIVAN

None

and floor amendment (1786h) was adopted by the necessary two-thirds.
Committee report adopted and ordered to third reading.

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

SB 381, relative to conservation commissions. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Betsey L. Patten for the Majority of Municipal and County Government: Conservation commissions currently may receive gifts and acquire property in the name of the town, with the approval of the governing body. This bill addresses the ability of the conservation commissions to expend funds to purchase land outside the boundaries of the municipality and to expend funds to contribute to “qualified organizations” for the purchase of property interests where the municipality will retain no interest. The authorization for purchasing land outside the municipal boundaries and contributions to “qualified organizations” is not clear in the present statute. The amendment sets up a process whereby the legislative body will vote to authorize the conservation commission to expend funds for both these circumstances, again with the approval of the governing body. The majority of the committee feels that having the check and balance of the governing body’s approval is an appropriate action and mirrors the process for the receiving of gifts and acquiring property that is in place right now. Vote 11-3.

Rep. Timothy Butterworth for the Minority of Municipal and County Government: At this time some towns are using their conservation organizations for protection of lands that border their town or lie in more than one town. These projects may involve shared ownership or ownership of easements. Other towns have received legal advice that current law doesn’t allow for the latter. This bill clarifies and permits these important activities for protection of lands important for a town. However, by requiring approval of the town governing body in these transactions, the bill as amended becomes a disincentive for individuals who donate money for conservation commission projects but don’t want town government control of their donations, and to landowners who have reasons to make a bargain sale discretely and promptly. For this reason some members felt this bill was a step backwards and the vote should be ITL.

Majority Amendment (1485h)

Amend the bill by replacing all after the enacting clause with the following:

1 Conservation Commissions; Method of Adoption. Amend RSA 36-A:1 to read as follows:

36-A:1 Method of Adoption. Any city by vote of its city council, and any town at any duly warned meeting, may adopt ***or rescind*** the provisions of this chapter.

2 Conservation Commissions; Powers. RSA 36-A:4 is repealed and reenacted to read as follows:

36-A:4 Powers. Said commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, subject to the approval of the local governing body, such gifts to be managed and controlled by the commission for the purposes of this section. Said commission may acquire in the name of the city or town, subject to the approval of the local governing body, by purchase, the fee in such land or water rights within the boundaries of the municipality, or any lesser interest, development right, easement, covenant, or other contractual right including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within their city or town, and shall manage and control the same, but the city or town or commission shall not have the right to condemn property for these purposes.

3 New Section; Conservation Commissions; Additional Powers. Amend RSA 36-A by inserting after section 4 the following new section:

36-A:4-a Optional Powers.

I. The legislative body of a city or town may vote at an annual meeting to authorize the conservation commission, with the approval of the governing body, to do one or more of the following:

(a) Expend funds for the purchase of interests in land outside the boundaries of the municipality.

(b) Expend funds for contributions to “qualified organizations,” as defined in section 170(h)(3) of the Internal Revenue Code of 1986, for the purchase of property interests or facilitating transactions relative thereto to be held by the qualified organization, when such purchase carries out the purposes of this chapter. Because such contributions further the protection of the state’s natural resources, they are hereby declared to be a public purpose.

II. A vote under this section may be taken simultaneously with the adoption of this chapter or any time thereafter. If the vote is taken simultaneously with the adoption of this chapter, a separate question shall be placed on the warrant.

(a) The wording of the question under subparagraph I(a) shall be: “Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(a) to authorize the conservation commission to expend funds to purchase interests in land outside the boundaries of our municipality?”

(b) The wording of the question under subparagraph I(b) shall be: “Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(b) to authorize the conservation commission to expend funds for contributions to ‘qualified organizations’ for the purchase of property interests, or facilitating transactions related thereto, where the property interest is to be held by the qualified organization and the town will retain no interest in the property?”

III. The provisions of this section may be rescinded by vote of the legislative body.

4 Appropriations Authorized; Contributions to Qualified Organizations. Amend RSA 36-A:5, II to read as follows:

II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the conservation fund and shall pay out the same only upon order of the conservation commission. The disbursement of conservation funds shall be authorized by a majority of the conservation commission. Prior to the use of such funds for the purchase of any interest in real property ***or for a contribution to a qualified organization for the purchase of property interests under RSA 36-A:4-a, I(b)***, the conservation commission shall hold a public hearing with notice in accordance with RSA 675:7.

5 Effective Date. This act shall take effect January 1, 2009.

AMENDED ANALYSIS

This bill allows conservation commissions to contribute money from the conservation fund to certain qualified organizations for the purchase of property interests to be held by the organization when such purchase carries out the purposes for which conservation commissions are established. This bill also authorizes conservation commissions to purchase interests in land outside the boundaries of the municipality.

Majority committee amendment adopted.

Rep. Butterworth offered floor amendment (1798h).

Floor Amendment (1798h)

Amend the bill by replacing all after the enacting clause with the following:

1 Conservation Commissions; Method of Adoption. Amend RSA 36-A:1 to read as follows:

36-A:1 Method of Adoption. Any city by vote of its city council, and any town at any duly warned meeting, may adopt ***or rescind*** the provisions of this chapter.

2 Conservation Commissions; Powers. RSA 36-A:4 is repealed and reenacted to read as follows:

36-A:4 Powers. Said commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, subject to the approval of the local governing body, such gifts to be managed and controlled by the commission for the purposes of this section. Said commission may acquire in the name of the city or town, subject to the approval of the local governing body, by purchase, the fee in such land or water rights within the boundaries of the municipality, or any lesser interest, development right, easement, covenant, or other contractual right including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within their city or town, and shall manage and control the same, but the city or town or commission shall not have the right to condemn property for these purposes.

3 New Section; Conservation Commissions; Additional Powers. Amend RSA 36-A by inserting after section 4 the following new section:

36-A:4-a Optional Powers.

I. The legislative body of a city or town may vote at an annual meeting to authorize the conservation commission to:

(a) Expend funds for the purchase of interests in land outside the boundaries of the municipality, subject to the approval of the local governing body; and

(b) Expend funds for contributions to “qualified organizations,” as defined in section 170(h)(3) of the Internal Revenue Code of 1986, for the purchase of property interests or facilitating transactions relative thereto to be held by the qualified organization, when such purchase carries out the purposes of this chapter. Because such contributions further the protection of the state’s natural resources, they are hereby declared to be a public purpose.

II. A vote under this section may be taken simultaneously with the adoption of this chapter or any time thereafter. If the vote is taken simultaneously with the adoption of this chapter, a separate question shall be placed on the warrant.

(a) The wording of the question under subparagraph I(a) shall be: “Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(a) to authorize the conservation commission to expend funds to purchase interests in land outside the boundaries of our municipality, subject to the approval of the local governing body?”

(b) The wording of the question under subparagraph I(b) shall be: “Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(b) to authorize the conservation commission to expend funds for contributions to ‘qualified organizations’ for the purchase of property interests, or facilitating transactions related thereto, where the property interest is to be held by the qualified organization and the town will retain no interest in the property?”

III. The provisions of this section may be rescinded by vote of the legislative body.

4 Appropriations Authorized; Contributions to Qualified Organizations. Amend RSA 36-A:5, II to read as follows:

II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the conservation fund and shall pay out the same only upon order of the conservation commission. The disbursement of conservation funds shall be authorized by a majority of the conservation commission. Prior to the use of such funds for the purchase of any interest in real property ***or for a contribution to a qualified organization for the purchase of property interests under RSA 36-A:4-a, I(b)***, the conservation commission shall hold a public hearing with notice in accordance with RSA 675:7.

5 Effective Date. This act shall take effect January 1, 2009.

AMENDED ANALYSIS

This bill allows conservation commissions to contribute money from the conservation fund to certain qualified organizations for the purchase of property interests to be held by the

organization when such purchase carries out the purposes for which conservation commissions are established. This bill also authorizes conservation commissions to purchase interests in land outside the boundaries of the municipality.

Rep. Butterworth spoke in favor.

Rep. Patten spoke against and yielded to questions.

On a division vote, 186 members having voted in the affirmative and 59 in the negative, floor amendment (1798h) was adopted by the necessary two-thirds.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.

On a division vote, 204 members having voted in the affirmative and 42 in the negative, the majority committee report was adopted by the necessary two-thirds.

Ordered to third reading.

SB 479, relative to the vote required for passage of school bonds. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Betsey L. Patten for the Majority of Municipal and County Government: Currently a traditional school district meeting requires a two-thirds vote to authorize the issuance of notes or bonds. In a charter school district the vote required for authorizing a bond is also two-thirds. This bill would change the authorization vote from two-thirds to three-fifths with no vote of the local legislative body. The majority of the committee realizes that if a school district or school board wants to have a lower threshold vote for authorizing bonds, then implementing official ballot voting, known as “SB 2,” is an option that is voted on by the legislative body. The committee also noted that changing the percentage vote for bonding could violate the constitution by changing a form of government without approval from the legislative body. Vote 11-3.

Rep. Timothy Butterworth for the Minority of Municipal and County Government: The committee heard testimony from a school district in a quandary: it had to repair the old school, build a new one, or disperse their students to other schools. Every year of delay raised the cost of any solution. Eight town votes had only produced further gridlock, with neither side gaining a 66% super majority. Our founding fathers were suspicious of democracy, or “mobocracy” as some of them called it, and the rules about super majorities are one way they prevented voters from changing the status quo. The US Senate, in 1975, reduced its cloture rule to 60% for this very reason. Without it, nothing could pass and the country was regularly in log jam. During the recent confirmation hearing for the Supreme Court we heard much dissatisfaction even with this lower super majority, and calls for a simple majority, an “up or down vote.” We haven’t heard this radical demand much since 2006. The minority of our committee endorsed the 60% solution because New Hampshire citizens are more frustrated with governmental gridlock than they are afraid of threatening the status quo. The House members should have a chance to consider a small percentage change and a big concept in our democracy.

Majority committee report adopted by the necessary two-thirds.

The House recessed at 12:45 p.m.

RECESS

(Speaker Norelli in the Chair)

The House reconvened at 1:45 p.m.

CLERK’S NOTE

When less than two-thirds of the elected membership is present, Part II, Article 20 of the state constitution requires the assent of two-thirds of those present and voting to render

their acts and proceedings valid.

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

CLERK'S NOTE

It was noted that the following two bills, **SB 383** and **SB 451** were voted upon without a quorum present in the Science, Technology and Energy committee.

SB 383, establishing a commission to develop a plan for the expansion of transmission capacity in the north country. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Carol H. Friedrich for Science, Technology and Energy: This bill establishes a commission to develop a plan for the expansion of electric transmission capacity in the North Country. This commission is authorized to complete any engineering or economic studies necessary. The plan will be a beginning step in the timely development of renewable energy generating projects in the North Country and the upgrading or replacement of transmission facilities to bring this energy to the rest of the grid. Vote 7-2.

Amendment (1787h)

Amend subparagraph II(a) as inserted by section 3 of the bill by replacing it with the following:

(a) Representatives of proposed New Hampshire renewable generation projects which either have active applications in the ISO-NE Generator Interconnection Study Queue or are subject to New Hampshire jurisdictional interconnection administration, one member appointed by U.S. Senator Judd Gregg, one member appointed by U.S. Senator John Sununu, one member appointed by U.S. Congressman Paul Hodes, and one member appointed by U.S. Congresswoman Carol Shea Porter.

Amend paragraph I as inserted by section 4 of the bill by replacing it with the following:

I. Shall develop a proposal for the upgrade of the transmission system in the north country no later than December 1, 2008, with the support of the public utilities commission and a consensus of the state's electric distribution providers, electric transmission companies, the consumer advocate, the commission staff and developers of renewable energy projects who have active applications in the ISO-NE Generator Interconnection Study Queue as of the effective date of this act. Consideration in the development of such a plan shall be given to both a regional solution and, for the Coos Loop, a New Hampshire-only solution. As part of the proposal, the commission shall:

(a) Expedite the necessary studies required to achieve transmission expansion.

(b) Determine what the options, process, and timelines would be for pursuing a regional solution.

Amendment adopted.

Rep. Friedrich offered floor amendment (1848h)

Floor Amendment (1848h)

Amend paragraph I as inserted by section 4 of the bill by replacing it with the following:

I. Shall develop a proposal for the upgrade of the transmission system in the north country no later than December 1, 2008, with the support of the public utilities commission and a consensus of the state's electric distribution providers, electric transmission companies, the consumer advocate, the commission staff and developers of proposed New Hampshire renewable generation projects which either have active applications in the ISO-NE Generator Interconnection Study Queue as of the effective date of this act or are subject to New Hampshire jurisdictional interconnection administration. Consideration in the development of such a plan shall be given to the options, process, and timelines of both a regional and a state solution.

Amend the bill by replacing section 5 with the following:

5 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this act. Six members of the commission shall constitute a quorum. The commission shall meet monthly to receive updates from the public utilities commission on the progress that is being made and to provide input to the public utilities commission with regard to achieving the necessary transmission capacity expansion in a timely fashion.

Amend the bill by replacing section 7 with the following:

7 Site Evaluation Committee; Review of Renewable Energy Projects. Amend RSA 162-H:4, V by inserting after subparagraph (b) the following new subparagraph:

(c) The committee shall employ the time frames under RSA 162-H:6-a for renewable energy facilities, to any proposal for the upgrade of the transmission system consideration part of the Coos county loop.

Amend the bill by inserting after section 7 the following and renumbering the original section 8 to read as 9:

8 Site Evaluation Committee; Definition. Amend RSA 162-H:2, II by inserting after subparagraph (c) the following new subparagraph:

(d) An electric transmission line of design rating in excess of 115 kilowatts.

Rep. Friedrich spoke in favor.

On a division vote, 211 members having voted in the affirmative and 26 in the negative, floor amendment (1848h) was adopted by the necessary two-thirds.

The question now being adoption of the committee report of Ought to Pass with Amendment.

Rep. Itse spoke against.

Rep. Kaen spoke in favor.

On a division vote, 207 members having voted in the affirmative and 37 in the negative, the committee report was adopted by the necessary two-thirds.

Ordered to third reading.

SB 451, authorizing rate recovery for electric public utilities investments in distributed energy resources. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. David A. Borden for the Majority of Science, Technology and Energy: Distributed energy is electrical power which is generated where such power is used. This bill encourages New Hampshire's electric public utilities to invest in distributed energy, especially clean and renewable electric power under state regulatory oversight. Vote 8-1.

Rep. Michael A. Kaelin for the Minority of Science, Technology and Energy: This bill was originally billed as a "renewable energy" bill, but in reality, it has nothing to do with renewable energy. The bill was written for a utility that is currently in the process of buying a gas utility, and the environmental limits for non-renewable generation were picked such that only gas-powered facilities could meet the limits. As amended, the bill authorizes utilities to build distributed generation equal to 6 percent of total capacity, about 150MW between all the utilities. Costs of building generation ranges from several dollars per watt, up to the high end of around \$10 per watt, which means the total amount of ratepayer money authorized by this bill could range from \$500 million all the way up to \$1.5 billion. There were no economic studies made of the costs to ratepayers. Most of the investments authorized here could be made already under the funds established by the Systems Benefit Charge, the RPS legislation passed last year, and the recently passed RGGI legislation. Finally, this legislation essentially allows re-regulation of the unregulated utilities and expansion of the capacity of PSNH, all without any public comment on the re-regulation issue.

Majority Amendment (1727h)

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Electric Utility Investment in Distributed Energy Resources. Amend RSA by inserting after chapter 374-F the following new chapter:

**CHAPTER 374-G
ELECTRIC UTILITY INVESTMENT
IN DISTRIBUTED ENERGY RESOURCES**

374-G:1 Purpose. Distributed energy resources can increase overall energy efficiency and provide energy diversity by eliminating, displacing, or better managing energy deliveries from the centralized bulk power grid, in keeping with the objectives of RSA 362-F:1. It is therefore in the public interest to stimulate investment in distributed energy resources in New Hampshire by encouraging New Hampshire electric public utilities to invest in distributed energy resources including clean and renewable generation benefiting the transmission and distribution system under state regulatory oversight.

374-G:2 Definitions; Exclusions.

I. The following definitions shall apply in this chapter except as otherwise provided:

(a) "Commission" means the public utilities commission.

(b) "Distributed energy resources" means electric generation equipment, including clean and renewable generation, energy storage, energy efficiency, demand response, load reduction or control programs, and technologies or devices located on or interconnected to the local electric distribution system for purposes including but not limited to reducing line losses, supporting voltage regulation, or peak load shaving, as part of a strategy for minimizing transmission and distribution costs as provided in RSA 374-F:3, III.

II. "Distributed energy resources" in this chapter shall exclude electric generation equipment interconnected with the local electric distribution system at a single point or through a customer's own electrical wiring that is in excess of 5 megawatts.

374-G:3 Electric Generation Equipment Funded by Public Utility; Requirements. Any electric generation equipment funded in part by a public utility under this chapter is subject to the following requirements:

I. The energy produced by electric generation equipment owned by the public utility shall be used as an offset to distribution system losses or the public utility company's own use;

II. The energy produced by electric generation equipment utilizing a non-renewable fuel source that is owned by a customer, or sited on a customer's property shall be used to displace the customer's own use;

III. The energy produced by electric generation equipment utilizing a renewable fuel source that is owned by a customer, or sited on the consumer's premises shall be used to displace the customer's own use; however, if energy is occasionally generated in excess of the customer's energy requirements, it may be credited to the customer's account in a subsequent period.

IV. Any biomass-fueled generation shall meet the emission requirements to qualify as eligible biomass technology under RSA 362-F:2, VIII.

V. Any fossil-fuel fueled generation shall produce combined heat and power with a minimum energy efficiency of 60 percent, measured as usable thermal and electrical output in BTUs divided by fuel input in BTUs, shall be installed as an integrated combined heat and power application, and shall meet the following emission standards (in lbs/MW-H): NO_x - 0.07; CO - 0.10; VOCs - 0.02. A credit to meet the emission standard may be applied at the rate of one MW-H for each 3.4 million BTUs of heat recovered.

VI. These requirements apply in addition to and do not preempt or replace any emission standards or permitting requirements applicable to a given generation facility under any other applicable state or federal law.

374-G:4 Investments in Distributed Energy Resources.

I. Notwithstanding any other provision of law to the contrary, as provided in RSA 374-G:5, a New Hampshire electric public utility may invest in or own distributed energy resources, located on or inter-connected to the local electric distribution system.

II. Distributed electric generation owned by or receiving investments from an electric utility under this section shall be limited to a cumulative maximum in megawatts of 6 percent of the utility's total distribution peak load in megawatts.

III. In addition, once the cumulative generation authorized under this chapter for a given public utility reaches 3 percent of the utility's total distribution peak load in megawatts, then that utility shall not be allowed to add any additional non-renewable generation under this chapter, until the cumulative renewable generation installed pursuant to this chapter, as a percentage of total generation installed pursuant to this chapter, shall equal or exceed twice the sum of the then-applicable percentage requirements for class 1 and class 2 under RSA 362-F:3.

374-G:5 Rate Filing; Authorization.

I. A New Hampshire electric public utility may seek rate recovery for its investments in distributed energy resources from the commission by making an appropriate rate filing. At a minimum, such filing shall include the following:

- (a) A detailed description and economic evaluation of the proposed investment.
- (b) A discussion of the costs, benefits, and risks of the proposal with specific reference to the factors listed in paragraph II, including an analysis of the costs, benefits, and rate implications to the participating customers, to the company's default service customers, and to the utility's distribution customers.
- (c) A description of any equipment or installation specifications, solicitations, and procurements it has or intends to implement.
- (d) A showing that it has made reasonable efforts to involve local businesses in its program.
- (e) Evidence of compliance with any applicable emission limitations.
- (f) A copy of any customer contracts or agreements to be executed as part of the program.

II. Prior to authorizing a utility's recovery of investments made in distributed energy resources, the commission shall determine that the utility's investment and its recovery in rates, as proposed, are in the public interest. Determination of the public interest under this section shall include but not be limited to consideration and balancing of the following factors:

- (a) Whether the expected value of the economic benefits of the investment to the utility's ratepayers over the life of the investment outweigh the economic costs to the utility's ratepayers.
- (b) The efficient and cost-effective realization of the purposes of the renewable portfolio standards of RSA 362-F and the restructuring policy principles of RSA 374-F:3.
- (c) The costs and benefits to any participating customer or customers.
- (d) The costs and benefits to the company's default service customers.
- (e) The energy security benefits of the investment to the state of New Hampshire.
- (f) The environmental benefits of the investment to the state of New Hampshire.
- (g) The economic development benefits and liabilities of the investment to the state of New Hampshire.
- (h) The effect on the reliability, safety, and efficiency of electric service.
- (i) The effect on competition within the region's electricity markets and the state's energy services market.

III. Authorized and prudently incurred investments shall be recovered under this section in a utility's base distribution rates as a component of rate base, and cost recovery shall include the recovery of depreciation, a return on investment, taxes, and other operating

and maintenance expenses directly associated with the investment, net of any offsetting revenues received by the utility directly attributable to the investment.

IV. The commission may add an incentive to the return on equity component as it deems appropriate to encourage investments in distributed energy resources.

V. The commission shall approve, disapprove, or approve with conditions a utility rate filing under this section within 90 days of its filing. The commission may extend this deadline to 6 months at its discretion for any filing involving an investment in excess of \$1,000,000. The commission may also extend the deadline at its discretion for failure of the applicant to respond to data requests on an expedited timeline.

374-G:6 Exemption; Rural Electric Cooperatives. The requirements for commission authorization for recovery of investments under RSA 374-G:5 shall not apply to rural electric cooperatives for which a certificate of deregulation is on file with the commission.

374-G:7 Exclusion. Any renewable generating equipment funded in part by a distribution utility under this chapter shall not be included in the calculation of the total rated generating capacity under RSA 362-A:9, I for purposes of limiting net energy metering.

2 Electric Utility Investment in Distributed Energy Resources; Report. The public utilities commission shall prepare a report reviewing and evaluating utility distributed energy resources investments proposed and implemented under RSA 374-G, to be filed on November 1, 2010, with the governor, the president of the senate, the speaker of the house of representatives, and the chairmen of the house science, technology, and energy committee and the senate energy, environment, and economic development committee. The report shall include any recommended changes to RSA 374-G, specifically including recommendations with respect to the definitions in 374-G:2, the limits in 374-G:4, II and the incentive provision in 374-G:5, IV.

3 Effective Date. This act shall take effect 60 days after its passage.
Majority committee amendment adopted by the necessary two-thirds.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.

Rep. Kaelin spoke against.

Rep. James Garrity spoke in favor and yielded to questions.

On a division vote, 206 members having voted in the affirmative and 39 in the negative, the majority committee report was adopted by the necessary two-thirds.

Ordered to third reading.

MOTION TO PRINT DEBATE

Rep. Kurk moved that the remarks made during the debate on **SB 451**, authorizing rate recovery for electric public utilities investments in distributed energy resources, be printed in the Permanent Journal.

On a division vote, 140 members having voted in the affirmative and 105 in the negative, the motion was adopted.

CLERK'S NOTE

The debate on **SB 451**, authorizing rate recovery for electric public utilities investments in distributed energy resources, will be printed in its entirety in the Permanent Journal.

(Deputy Speaker Foster in the Chair)

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

HR 25, urging Congress to fully implement the Secure Fence Act of 2006. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kris E. Roberts for the Majority of State-Federal Relations and Veterans Affairs: Much of the attention given to the Secure Fence Act of 2006, the short title for Public Law 109-367; An Act to Establish Operational Control over the International Land and Maritime Borders of the United States, is placed on the illegal immigration portion. The committee spent a great deal of time on the complete law and determined that the law addressed much more than illegal immigration along the southern border. It addressed such issues as controlling illegal drugs. According to DEA, over 80% of the cocaine smuggled from South America into the United States comes across the Mexico-Texas border resulting in Houston emerging as the leading cocaine distribution center in the United States. Over 70% or over 12,000 kilos of cocaine seized each year is seized between the Laredo and Brownsville, Texas ports of entry. A major section or 171 miles of the 700 miles of fence would be constructed between these two cities with the main purpose of stopping illegal drugs coming into the United States. The busiest illegal immigrant corridors are located in Arizona while recent ICE numbers showed less than 2,900 illegal entries during a 45 day period during the end of 2007 along the 171 mile corridor. When it comes to the construction of the fence, Public Law 109-367 replaces sections of the 1996 immigration law so the Secure Fence Act of 2006 doesn't call for an additional 700 miles of fence rather an expansion up to 700 miles. Furthermore Public Law 109-367 directs the Department of Homeland Security to develop non-physical barriers such as more effective use of personnel and technology to enhance and control access to all United State Borders to include the Northern Border and all maritime borders with the goal of decreasing the flow of counterfeit goods such as prescription drugs, counterfeit auto parts, and computer programs and other contraband such as knock off goods which threaten American's health and jobs. Additionally Public Law 109-367 directs the Department of Homeland Security to come up with recommendations to provide the United States Coast Guard with the ability to stop boats and ships that enter United States' waters illegally, refuse to stop when ordered and then attempt to outrun the Coast Guard into international waters. The committee debated HR 25 hard and long with many at first believing that it was an anti-Hispanic-Latin American immigration law. In the end the majority of the committee believed that one of the goals of the law when it came to immigration was controlling all unlawful entries into the United States regardless of country of origin. Also the committee as a whole believed that HR 25 was in fact more directed at overall homeland security than mainly focus of immigration reform or control. Vote 8-3.

Rep. Eleanor Glynn Kjellman for the Minority of State-Federal Relations and Veterans Affairs: The minority of the committee believes that this resolution, even as amended, while purporting to be a bill about security, is too much focused on building a fence to prevent illegal aliens from entering the country through Mexico. Similar emphasis is not placed on building a fence along the very porous northern border with Canada, in spite of the fact that the 9-11 hijackers entered through Canada and the Millennium Bombers were apprehended in the Seattle area after coming through the Canadian border. Furthermore, since the implementation of the Secure Fence Act, P.L. 109-367, unintended consequences have arisen. American citizens who own homes and land along the border are in court trying to keep the government from taking their homes and land by eminent domain in order to complete this fence. It has become apparent that if a fence is built of almost any height, there is a way to render it useless- possibly with such low tech devices as taller ladders, or tunnels dug under it, or simply going to its end and going around it. Increased Border Patrol personnel, National Guard deployments in states on the border, pressuring the Mexican government to offer economic opportunities to their own people, and discourage them to attempt the journey instead of handing out pamphlets about how to survive the desert are some of the things which might help solve the problem. Those solutions should be part of an immigration bill, not a security bill. The law requires a report on progress this month – May '08. The minority believes it will show that the reason the law has not been fully implemented on schedule is that it has been discovered to be ineffective, and too expensive. It would involve violating the rights of homeowners who should not have to give up their homes for the

building of an expensive wall that will not accomplish much more than allowing some to feel they have “done something .”

Majority Amendment (1076h)

Amend the resolution by replacing all after the title with the following:

Whereas, the Secure Fence Act of 2006 received strong bipartition support in the United States House of Representatives and United States Senate; and

Whereas, the Secure Fence Act of 2006 would establish operational control over the international lands and maritime borders of the United States to include territories; and

Whereas, operational control means the prevention of all unlawful entries into the United States, including entries by terrorists, unlawful aliens, instruments of terrorism, narcotics, counterfeit goods, and other contraband; and

Whereas, the Secure Fence Act of 2006 required that the Department of Homeland Security develop a systematic surveillance of the international land and maritime borders of the United States through more effective use of personnel and technology, such as unmanned aerial vehicles, ground-based sensors, satellites, radar coverage, Wi-Fi transmitters, and cameras; and

Whereas, the Secure Fence Act of 2006 requires the Department of Homeland Security develop physical infrastructure enhancements to prevent unlawful entry into the United States and facilitate access to the international land and maritime borders by United States Customs and Border Protection, such as additional checkpoints, all weather access roads, and vehicle barriers; and

Whereas, the Secure Fence Act of 2006 requires the Secretary of Homeland Security to conduct a study on the feasibility of a state-of-the-art infrastructure security system along the northern international land and maritime border of the United States; and

Whereas, the Secure Fence Act of 2006 requires the Secretary of the Department of Homeland Security to evaluate the authority of United States Coast Guard to stop vehicles, boats, and ships that enter the United States illegally and refuse to stop when ordered; and

Whereas, the Secure Fence Act of 2006 is part of comprehensive immigration reform and national security enhancements; now, therefore, be it

Resolved by the House of Representatives:

That the House of Representatives of the state of New Hampshire requests that the Administration immediately and fully comply with the provisions of the Secure Fence Act of 2006, Public Law 109-367, and that the United States Congress provide sufficient funding to allow complete compliance with the legislation; and

That copies of this resolution be sent by the house clerk to the President of the United States and to each member of the New Hampshire congressional delegation.

Rep. Kjellman spoke against.

Rep. Roberts spoke in favor.

LAID ON THE TABLE

Rep. Hunt moved that **HR 25**, urging Congress to fully implement the Secure Fence Act of 2006, be laid on the table.

Rep. Baldasaro requested a roll call; sufficiently seconded.

YEAS 155 NAYS 73

YEAS 155

BELKNAP

Millham, Alida

Morrison, Gail

Pilliod, James

Russell, David

CARROLL

Bridgham, Robert
Martin, James

Cunningham, Howard
Patten, Betsey

Heard, Virginia

Knox, J. David

CHESHIRE

Allen, Peter
Chase, William
Parkhurst, Henry
Weber, Lucy

Butcher, Suzanne
Eaton, Daniel
Richardson, Barbara

Butterworth, Timothy

Hunt, John

Robertson, Timothy

Butynski, William
Lerandeau, Alfred
Sad, Tara

COOS

Hatch, William
Tholl, John Jr

King, Frederick

Stohl, Eric

Theberge, Robert

GRAFTON

Almy, Susan
Friedrich, Carol
McLeod, Martha
Solomon, Peter

Andersen, Gene
Hammond, Lee
Mulholland, Catherine
Williams, Burton

Bleyler, Ruth
Harding, A Laurie
Pierce, David

Cooney, Mary
Laliberte, Suzanne
Preston, Philip

HILLSBOROUGH

Beck, Catriona
Cote, David
Emerton, Larry
Ginsburg, Ruth
Harvey, Suzanne
Leishman, Peter
McRae, Karen
Ober, Russell III
Sullivan, Daniel

Bergin, Peter
Daler, Jennifer
Essex, David
Gorman, Mary
Irwin, Anne-Marie
Long, Patrick
O'Brien, Michael Sr
Schulze, Joan
Villeneuve, Maurice

Chase, Claudia
Dokmo, Cynthia
Fontas, Jeffrey
Goyette, Peter
Kaelin, Michael
Mack, Ron
O'Neil, James
Simon, Anthony
Winters, Joel

Clemons, Jane
Edwards, Andrew
Gargas, Carolyn
Hammond, Jill
Kurk, Neal
Marshall, Seth
Ober, Lynne
Spratt, Stephen

MERRIMACK

Anderson, Eric
DeStefano, Stephen
Gile, Mary

Bouchard, Candace
Ehlers, Eileen
Hamm, Christine

Brown, Carole
Foose, Robert
Kidder, David

Brueggemann, Donald
French, Barbara
Kjellman, Eleanor
Glynn

MacKay, James
Reardon, Tara
Tilton, Joy
Williams, Robert

Osborne, Jessie
Richardson, Gary
Wallner, Mary
Yeaton, Charles

Porter, Margaret
Ryan, Jim
Walz, Mary

Potter, Frances
Shurtleff, Stephen
Webb, Leigh

ROCKINGHAM

Abbott, Dennis
Dalrymple, David
Gould, Kenneth
Kepner, Susan
McEachern, Paul
Pantelakos, Laura
Snow, Richard

Allen, Mary
Day, Judith
Griffin, Mary
Lister, Charlotte
McKenna, Daniel
Pettersen, Don
Splaine, James

Borden, David
DiFruscia, Anthony
Grote, Otto
Mann, Maureen
Moody, Marcia
Reagan, John
Weare, Everett

Brown, C. Pennington
Flockhart, Eileen
Kappler, Lawrence
Marsh, Michael
Nord, Susi
Robertson, Carl
Winchell, George

STRAFFORD

Billian, Deborah
Burke, Rachel
Kaen, Naida
Schmidt, Peter
Wall, Janet

Brennan, William
Domingo, Baldwin
Perry, Robert
Smith, Marjorie
Watson, Robert

Brown, Larry
Fargo, Thomas
Rollo, Deanna
Spang, Judith

Browne, Brendon
Hofemann, Roland
Rous, Emma
Sprague, Dale

SULLIVAN

Franklin, Peter
Jillette, Arthur Jr

Gagnon, Raymond
Skinder, Carla

Gottling, Suzanne

Houde, Matthew

NAYS 73

BELKNAP

Clark, Charles

Thomas, John

Tilton, Franklin

Wendelboe, Fran

CARROLL

Chandler, Gene

Stevens, Stanley

CHESHIRE

Emerson, Susan

Johnson, Jane

Roberts, Kris

COOS

Remick, William

GRAFTON

Aguiar, James
Sorg, Gregory

Bulis, Lyle

Dingman, Vernon III

Gionet, Edmond

HILLSBOROUGH

Batula, Peter
Day, Russell
Hall, Betty
Jasper, Shawn
Mooney, Maureen
Rowe, Robert
Vaillancourt, Steve

Bergeron, Jean-Guy
Elliott, Nancy
Hawkins, Ken
L'Heureux, Robert
Pilotte, Maurice
Shaw, Kimberly

Christiansen, Lars
Graham, John
Hogan, Edith
Manney, Pamela
Price, Pamela
Spaulding, Jayne

Crane, Elenore Casey
Haefner, Robert
Hopper, Gary
Messier, Irene
Renzullo, Andrew
Tahir, Saghir

MERRIMACK

Boutin, David
Tupper, Frank

Davis, Frank
Wheeler, Deborah

Hess, David

Lockwood, Priscilla

ROCKINGHAM

Baldasaro, Alfred
Case, Frank
Garcia, Marilinda
Howard, Doreen
McKinney, Betsy
Stiles, Nancy

Bedrick, Jason
Charron, Gene
Garrity, James
Introne, Robert
Priestley, Anne
Webber, James

Bettencourt, David
Emiro, Frank
Gleason, John
Katsakiores, George
Quandt, Matthew
Welch, David

Carson, Sharon
Flanders, John Sr
Headd, James
Katsakiores, Phyllis
Sanders, Elisabeth

STRAFFORD

Brown, Julie

Cyr, James

SULLIVAN

Converse, Larry

Rodeschin, Beverly

and the motion was adopted by the necessary two-thirds.

REGULAR CALENDAR – SPECIAL ORDERS (CONT'D)

SB 310-FN, relative to changes to games of chance. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. William A. Hatch for the Majority of Ways and Means: The purpose of this bill is to make some changes to the licensing and application process in addition to creating some penalties for infractions of the pari-mutuel commission's requirements. This bill also establishes a position of internal auditor in the pari-mutuel commission. After several meetings with participation of the Executive Departments and Administration committee, the committee recommended amending the bill so that it includes a better defined range of infractions as well as narrowing the range of fines within each class of violation. With ED&A, we also added penalties to apply to relevant violations, as already passed by the House. The added position of an auditor is required so that the pari-mutuel commission can effectively administer the added requirements, and a member from the Finance Committee joined the sub-committee on this item. This bill is the result of several years of work by House and Senate ED&A and Ways & Means committees and the majority enthusiastically supports its' passage. Vote 9-4.

Rep. Steve Vaillancourt for the Minority of Ways and Means: This bill is not ready for prime time, therefore the minority believes the issue should be studied and a better draft created before anything is passed. This bill seems to be the consolidation of three bills making the rounds. The purpose of Ways & Means as a second committee is to look at fees, fines, and taxes. However, it is obvious now that this bill came out of EDA prior to policy issues being settled. Therefore, the Ways & Means subcommittee spent much of its time dealing with issues not pertinent to Ways & Means. It would be far better to spend the summer looking at this and to introduce more finely tuned legislation next session. Regarding penalties, the Ways & Means amendment contains a 400 percent and a 250 percent increase in two categories; that is to say, an increase from \$100 to \$250 as the minimum fine for a "moderate violation" and from \$250 to \$1000 as the minimum fine for a "major violation" from what ED&A recommended. (The maximum fine in those two categories were set at \$1500 and \$5000.) The Ways & Means amendment also contains far too specific wording as to what constitutes minor, major and moderate offenses. Such a task should go to ED&A, if any committee, not a Ways & Means subcommittee.

Majority Amendment (1774h)

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; License Applications. Amend RSA 287-D:2-a by inserting after paragraph IX the following new paragraph:

X. At least 45 days prior to each game date, the charitable organization shall submit the date and location of the game of chance, if this information has not already been submitted to the pari-mutuel commission pursuant to subparagraph II(a).

2 New Paragraph; Games of Chance; Operation. Amend RSA 287-D:2-b by inserting after paragraph VII the following new paragraph:

VII-a. Notwithstanding any other provision of law, a member of the sponsoring charitable organization shall be present and on site at all times during the operation of any game of chance. The sponsoring charitable organization member shall not be employed by the game operator or the employer of the game operator.

3 Operation of Games of Chance. Amend RSA 287-D:2-b, III-IV to read as follows:

III. No one under the age of 18 years shall be admitted to the premises on which games of chance are being conducted, except when the games are being conducted at a carnival. Proof of age shall be produced upon request of the ~~[lottery]~~ **pari-mutuel** commission. When games of chance are conducted at a carnival, persons under the age of 18 years may be admitted to the premises on which the games are being conducted when accompanied and supervised by a parent or legal guardian; but persons under the age of 18 shall not be permitted to play games of chance at a carnival.

IV. No games of chance shall be conducted prior to 11:00 a.m. on a weekday **or Saturday**, prior to noon on a Sunday, or after 1:00 a.m. on any day.

4 Licensing of Game Operators. RSA 287-D:2-c, V is repealed and reenacted to read as follows:

V. The game operator or the game operators employer shall submit a bond for each location where the game operator is conducting games of chance, conditioned upon the game operator running games of chance in conformity with this chapter and with the rules and regulations prescribed by the pari-mutuel commission, in the amount of up to \$300,000 to the pari-mutuel commission with the application form.

5 New Paragraph; Licensing of Game Operators. Amend RSA 287-D:2-c by inserting after paragraph V the following new paragraph:

VI. In addition to the charitable organization, game operators who operate games of chance on behalf of a charitable organization shall also be held responsible for all requirements that the charitable organization is responsible for when they operate the games of chance themselves.

6 New Paragraphs; Games of Chance; Penalty. Amend RSA 287-D:6 by inserting after paragraph III the following new paragraphs:

IV. In addition to the provisions of paragraph I:

(a) Any person who purposely or knowingly makes a false entry in any report required under this chapter which results in a reduction of revenues due to a charitable organization shall be guilty of a class A felony.

(b) Any person who recklessly or negligently makes a false entry on any report required under this chapter which results in a reduction of revenues due to a charitable organization shall be guilty of a class A misdemeanor.

(c) Any game operator employer or game operator who fails to remit to a charitable organization all revenues due under this chapter shall be guilty of a class A felony.

V. Any game operator employer or game operator who fails to pay the charitable organization all moneys required by this chapter shall be guilty of a class B felony for any amount less than \$500, and a class A felony for any amount equal to or greater than \$500.

VI. Any person who violates any provision of RSA 637 in a manner that deprives the charitable organization of any moneys required by this chapter, notwithstanding the penalties set forth in RSA 637:11, shall be guilty of a class B felony for any amount less than \$500, and a class A felony for any amount equal to or greater than \$500.

VII. In addition to any other penalty imposed under this chapter, a charitable organization which suffers a loss caused by the violation of any provision of this chapter may bring a civil action for actual damages suffered. If the court finds that the violation was committed purposefully or knowingly, it shall award enhanced compensatory damages of not less than 2 times the amount of actual damages suffered, and may award up to 3 times the amount of actual damages suffered. In any civil action, the prevailing party shall be awarded court costs and reasonable attorney's fees. No waiver of the provisions of this paragraph shall be enforceable.

VIII. The pari-mutuel commission may issue an order requiring any person or organization to comply with this subdivision or any rule adopted hereunder, and may require such remedial measures as may be necessary.

IX. The pari-mutuel commission may impose an administrative fine scaled to reflect a violator's prior history and the scope and severity of the violation, after notice and hearing,

pursuant to rules adopted under RSA 541-A, for any violation of this subdivision, any rule adopted under this subdivision, any license issued pursuant to this chapter, or any order issued pursuant to this subdivision, or upon any person who makes or certifies to a material false statement relative to any application or report required by this subdivision. In determining the amount of a fine, the pari-mutuel commission may take into consideration all relevant circumstances, including: the degree of noncompliance, the extent of harm caused by the violation, the nature and persistence of the violation, the time and cost associated with the investigation by the state, and the economic impact of the violation on the state or the charity conducting or sponsoring the game. Any administrative fine imposed under this paragraph shall not preclude the imposition of other penalties as provided by law. Rehearings and appeals from a decision of the commission under this paragraph shall comply with RSA 541. Fines imposed by the pari-mutuel commission shall be as follows:

(a) The fine for a minor violation shall be not less than \$25 and not more than \$500 per violation. A minor violation shall be one where the pari-mutuel commission determines that the potential for harm to the interests of the state and the charity, as well as the integrity of charitable gaming is minor and may include, but is not limited to, a game operator, a game operator employer, charitable organization, or charitable organization member not:

- (1) Wearing a properly issued badge;
- (2) Posting 2 copies of the laws and rules;
- (3) Having a diagram available for each table where games of chance are being played indicating the type of game being played, the bet amount, the buy-in amount, and the re-buy amounts as applicable; or

- (4) Publicly displaying the name of the charitable organization.

(b) The fine for a moderate violation shall be not less than \$250 and not more than \$1,500 per violation. A moderate violation shall be one where the pari-mutuel commission determines that the potential for harm to the interests of the state and the charity, as well as the integrity of charitable gaming is moderate and may include, but is not limited to, a game operator, game operator employer, charitable organization, or charitable organization member:

- (1) Filing a late financial report;
- (2) Operating a game not specifically listed on the game schedule;
- (3) Operating a game on a different date than licensed without approval of the pari-mutuel commission;
- (4) Committing 3 or more minor violations within 2 years; or
- (5) Knowingly operating a game of chance without a representative of the charitable organization present and on-site.

(c) The fine for a major violation shall be not less than \$1,000 and not more than \$5,000 per violation. A major violation shall be one where the pari-mutuel commission determines that the potential for harm to the interests of the state and the charity, as well as the integrity of charitable gaming is major and shall include, but is not limited to, a game operator, game operator employer, charitable organization, or charitable organization member:

- (1) Operating a game of chance without a license;
- (2) Operating a game of chance without having the personnel or officials required;
- (3) Purposely operating a game of chance without a representative of the charitable organization present and on-site;
- (4) Operating a game of chance with game operators who are not licensed;
- (5) Failing to establish or maintain a New Hampshire bank account; or
- (6) Committing 5 or more minor violations or 3 or more moderate violations within 2 years.

(d) The pari-mutuel commission may suspend any part of a fine for just cause.

X. All fines imposed by the pari-mutuel commission shall be deposited in the special fund established pursuant to RSA 284:21-j.

7 New Paragraph; Game Operator; Definition. Amend RSA 287-D:1 by inserting after paragraph IV the following new paragraph:

V. "Game operator" means:

(a) "Primary game operator" which means any consultant or any person other than a bona fide member of the charitable organization, involved in conducting, managing, supervising, directing, or running the games of chance; or

(b) "Secondary game operator" which means any person other than a bona fide member of the charitable organization, involved in dealing, running a roulette wheel, or handling chips.

8 License Fees and Specifications. RSA 287-D:2-d, III is repealed and reenacted to read as follows:

III. An applicant for a primary game operator license under RSA 287-D:2-c shall apply to the pari-mutuel commission, and if the applicant meets all other requirements of this chapter and pays the fee established by the pari-mutuel commission in rules adopted pursuant to RSA 541-A, a license shall be issued. A license issued under RSA 287-D:2-c shall expire on December 31. The pari-mutuel commission shall notify the attorney general and police chief of any city or town where games of chance are held of any applications approved. RSA 7:28-c shall not apply to game operator licensees subject to this chapter. An applicant for a secondary game operator license under RSA 287-D:2-c shall apply to the pari-mutuel commission, and if the applicant meets all other requirements of this chapter and pays the fee established by the pari-mutuel commission in rules adopted pursuant to RSA 541-A, which shall not exceed \$45, a license shall be issued.

9 New Paragraphs; Rulemaking; Game Operator Fees. Amend RSA 287-D:1-b by inserting after paragraph XII the following new paragraphs:

XII-a. Administrative orders and fines pursuant to RSA 287-D:6.

XII-b. Badge specifications, requirements, and fees pursuant to RSA 287-D:2-d, VII.

XII-c. Game operator fees pursuant to RSA 287-D:2-d, III.

10 Pari-Mutuel Commission; Position Established. The following position is hereby established in the pari-mutuel commission. This position and costs associated with this position, including current expense, equipment, in-state travel, and out-of-state travel, shall be funded from fees collected pursuant to RSA 287-D:2-d, III:

One internal auditor III, labor grade 23.

11 Repeal. The following are repealed:

I. RSA 287-D:2-b, XIII, relative to submission of information to the pari-mutuel commission.

II. RSA 287-D:2-c, I, definition of game operator.

III. RSA 287-D:2-d, IV, relative to authorization of specific games.

IV. RSA 284:23, V, relative to tax rates for Rockingham Park.

12 Effective Date. This act shall take effect July 1, 2008
Rep. Vaillancourt spoke against and requested a quorum call.
The Chair declared a quorum present.

APPEAL OF THE RULING OF THE CHAIR

Rep. Vaillancourt appealed the ruling of the Chair.

The question now being shall the ruling of the Chair be upheld?

On a division vote, 176 members having voted in the affirmative and 40 in the negative, the ruling of the Chair was upheld.

SB 310-FN (CONT'D)

The question now being adoption of the majority committee amendment.

Rep. Hatch spoke in favor and yielded to questions.

Rep. Hawkins spoke in favor.

On a division vote, 153 members having voted in the affirmative and 56 in the negative, the majority committee amendment was adopted by the necessary two-thirds.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.

Rep. Vaillancourt spoke against.

Rep. Hatch spoke in favor.

(Speaker Norelli in the Chair)

On a division vote, 160 members having voted in the affirmative and 51 in the negative, the majority committee report was adopted by the necessary two-thirds.
Ordered to third reading.

***SB 317-FN*, relative to the retail sale of tobacco products. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. William A. Hatch for the Majority of Ways and Means: The purpose of this bill is to transfer the licensing for retail tobacco sales from the department of revenue administration (DRA) to the liquor commission. Since the liquor commission administers the enforcement of tobacco sales requirements, it would streamline the function to put the license process under the commission as well. The bill as passed by the Senate would not allow in-state retailers of tobacco products to sell or exchange tobacco products with each other for resale, which under current requirements is allowed. DRA and the liquor commission responded that it was not their intent, so the bill was amended to allow that activity. The bill also increased the fees a considerable amount, but after the subcommittee reviewed those increases with the liquor commission, it was agreed that the fees could be reduced to a slight increase that would pay for the notification requirements. Vote 10-2.

Rep. Steve Vaillancourt for the Minority of Ways and Means: This bill, as originally recommended by the Executive Departments and Administration committee and passed by the House, purportedly only does one thing – transfers licensing for retail tobacco sales from the department of revenue administration (DRA) to the liquor commission. However, upon closer inspection, the committee discovered that fee increases were also included. The committee amendment strips out one particularly egregious increase, a 70 percent hike for tobacco vending machine operators. However, it leaves in a 20 percent increase for businesses which sell tobacco products. It's actually an insignificant amount, from \$5 to \$6. It would raise approximately \$1800. The minority believes that for such a small amount, it is imprudent to go through the work of raising the fee. The liquor commission claimed that money is necessary to print posters, but left it unclear how much money was needed for this, thus bringing into question exactly how vital this money is. The minority believes the \$5 (or \$6) fee is intended for licensing, not printing. Although not particularly in the purview of ways and means, the minority also challenges the wisdom of the liquor commission assuming this task. DRA is the tax collecting branch of state government. It oversees cigarette tax stamping and should retain this less vital function. The minority is not convinced this is a streamlining of state government.

Majority Amendment (1663h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the sale of tobacco products and the appeals process concerning the seizure of illegal tobacco products.

Amend the bill by replacing section 5 with the following:

5 Unstamped Tobacco Products. Amend RSA 78:14 to read as follows:

78:14 Unstamped Tobacco Products. No sub-jobber, vending machine operator, or retailer, and no other person who is not licensed under the provisions of this chapter **or licensed under the provisions of RSA 178**, shall sell, offer for sale, display for sale, ship, store, import, transport, carry, or possess with or without intent to sell, any tobacco products not properly stamped under RSA 78:12 or 78:13, except as provided in RSA 78:12, II. This section shall not prevent any unlicensed person able to purchase unstamped tobacco products by statute from possessing such products for his **or her** own use or consumption, **if the tax otherwise due under this chapter is paid by the unlicensed person to the department directly**. The provisions of this section shall not apply to common carriers transporting unstamped tobacco products. Any person who violates the provisions of this section shall be guilty of a felony.

Amend RSA 178:18, I as inserted by section 15 of the bill by replacing it with the following:

I. Off-premises licenses shall be issued only for grocery and drug stores not holding on-premises licenses. Such licenses shall authorize the licensees to sell fortified wine, table wine, and beverages for consumption only off the premises designated in the licenses and not to other licensees for resale. Such sale shall be made only in the immediate container in which the beverage, wine, or fortified wine was received by the off-premises combination licensee; except that in the case of the holder of a wholesale distributor license, beverages may be sold only in such barrels, bottles, or other containers as the commission may by rule prescribe. **Off-premises licenses may also authorize the licensee to sell tobacco products.** There shall be no restriction on the number of combination ~~[retail wine and beverage]~~ licenses held by any person. The license shall authorize the licensee to transport and deliver beverages, ~~[ordered from and sold by the licensee and to transport and deliver]~~ **tobacco products, and** table or fortified wines ordered from and sold ~~[by the commission and sold]~~ by the licensee in vehicles operated under the licensee's control or an employee's control.

Amend the bill by replacing section 16 with the following:

16 New Paragraph; Fees; Tobacco Licenses. Amend RSA 178:29 by inserting after paragraph V the following new paragraph:

V-a. Annual tobacco licenses shall be as follows:

- (a) Retail tobacco license, \$6.
- (b) Tobacco vending machine license, \$35, plus \$6 for each machine.
- (c) Tobacco sampling license, \$6.

Amend the bill by replacing all after section 19 with the following:

20 Nature of the Tobacco Tax. Amend RSA 78:7-a to read as follows:

78:7-a Nature of Tax. All taxes upon tobacco products under this chapter are declared to be a direct tax upon the consumer at retail and shall conclusively be presumed to be pre-collected for the purpose of convenience and facility only. **Accordingly, the commissioner may collect the tax directly from consumers who purchase unstamped tobacco products.**

21 Seizure, Forfeiture, and Destruction of Illegal Tobacco Products; Appeals Procedure.

Amend RSA 78:16 to read as follows:

78:16 Seizure, Forfeiture, and Destruction of Illegal Tobacco Products.

I. Unless the tobacco products are subject to the exemption under RSA 78:12, II, tobacco products found at any place in this state without the necessary stamps affixed to them, unless they shall be in the possession of a licensed manufacturer or wholesaler, or unless they shall be in the course of transit by common carrier from a bonded warehouse and consigned to a licensed manufacturer, wholesaler or anyone exempted by statute, shall be declared to be contraband goods and subject to forfeiture to the state.

II. The commissioner, the commissioner's authorized agents, sheriffs, deputy sheriffs, and police officers shall have the power to seize such tobacco products in the manner provided under RSA 617 or by immediately seizing the contraband tobacco products and providing the owner with the opportunity to appeal the seizure through an administrative

proceeding before the department. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the seizure and destruction of contraband tobacco products and the [appeals] **hearings** procedure.

22 New Section; Appeals of License Revocation or Suspension Orders and Tobacco Seizure Orders. Amend RSA 78 by inserting after section 31 the following new section:

78:31-a Appeals of License Revocation or Suspension Orders and Seizure, Forfeiture, or Destruction of Illegal Tobacco Products Orders.

I. This section shall apply only to appeals of final orders regarding license revocation or suspension under RSA 78:6 and final orders regarding seizure, forfeiture, and destruction of illegal tobacco products under RSA 78:16. Proceedings regarding assessments of tax, penalties, and interest and requests for refund of tax, penalties, and interest shall be taken under RSA 21-J:28-b.

II. Within 30 days of the notice of a final order by the commissioner, the owner or licensee, as applicable, may appeal such order by written application to the board of tax and land appeals. The board of tax and land appeals shall hear the appeal de novo.

23 Effective Date.

I. Sections 1-4 and 6-19 of this act shall take effect January 1, 2009.

II. The remainder of this act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Transfers licensing for retail tobacco sales from the department of revenue administration to the liquor commission.

II. Allows the department of revenue administration to collect the tobacco tax directly from consumers who purchase unstamped tobacco products.

III. Clarifies the appeals procedure for illegal tobacco seizure, forfeiture, or destruction orders.

On a division vote, 169 members having voted in the affirmative and 33 in the negative, the majority committee amendment was adopted by the necessary two-thirds.

The question now being adoption of the majority committee report of Ought to Pass with Amendment.

On a division vote, 167 members having voted in the affirmative and 44 in the negative, the majority committee report was adopted by the necessary two-thirds.

Ordered to third reading.

SB 328, relative to civil forfeitures for certain waste disposal violations. **OUGHT TO PASS.** Rep. Michael G. Marsh for Ways and Means: This bill was introduced on behalf of the department of environmental services and the attorney general's office. It changes the maximum fine for serious violations of certain provisions of RSA 485 relating to sewage disposal systems. The committee was informed that major violations of this act can result in serious public health danger as well as environmental harm. The fine would apply in the case of the construction of a building from which wastes will discharge without a septic system, building a subdivision without authorization, failing to abide by a lawfully issued administrative order, or construction of a building or system based on a permit that was issued based on false or misleading information. Currently, the maximum fine for any of these offenses is a one-time \$5000. The agency testified that this penalty is insufficient, as it is less costly to pay the penalty than to correct the problem. The agency related the example of a house built next to a north-country lake with no septic system that discharged sewage directly into the lake. This bill raises the maximum fine to up to \$10,000 per day. While this seems high, it is consistent with the current penalties for other serious violations that relate to state waters, or shoreline and wetlands protection. To prevent unreasonable fines, the bill adds a provision that the fine must be commensurate with the extent of harm done, the persistence of the violation, the impact of the fine on the offender, and other relevant

considerations. Vote 12-5.

On a division vote, 145 members having voted in the affirmative and 66 in the negative, the committee report was adopted by the necessary two-thirds.

Ordered to third reading.

SB 519-FN, imposing a per diem fine on dam owners and operators for failure to repair damage. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Christine C. Hamm for Ways and Means: This bill provides the department of environmental services authority to enforce penalties on private dam owners who fail to address necessary repair and maintenance problems that could impose environmental harm or jeopardize public safety. While the fine of \$2,000 per civil violation remains the same as in RSA 482:11, this bill gives teeth to the current statute, requiring enforcement if a dam owner does not respond to the department's notice within 45 days of receipt. To encourage compliance, the bill allows the fines collected to be used to establish a revolving loan fund for private dam owners who need assistance paying for such repairs. Vote 16-1.

Amendment (1687h)

Amend RSA 482:89, V as inserted by section 3 of the bill by replacing it with the following:

V. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose upon any person who violates any provision of this chapter, as specified in paragraph I an administrative fine not to exceed \$2,000 for each violation in addition to other remedies and penalties provided under this chapter. The department shall commence a proceeding under this paragraph against any person who does not respond within 45 days of receipt of a written order, directive, or any notice of needed maintenance, repair, or reconstruction issued by the department. Rehearings and appeals under this paragraph shall be in accordance with RSA 541. The commissioner shall adopt rules, under RSA 541-A, relative to:

- (a) A schedule of administrative fines which may be imposed under this paragraph for violation of this chapter as specified in paragraph I; and
- (b) Procedures for notice and hearing prior to the imposition of an administrative fine.

Amend RSA 482:89, VI as inserted by section 3 of the bill by replacing it with the following:

VI. The proceeds of any penalties levied pursuant to paragraphs III through V shall be deposited into the dam maintenance revolving loan fund established in RSA 482:55-a.

Amend RSA 482:89, VIII as inserted by section 3 of the bill by replacing it with the following:

VIII. In determining penalties, the department shall and the superior court may take into consideration all relevant circumstances, including the degree of noncompliance, the extent of harm caused by the violation, the nature and persistence of the violation, the time and cost associated with the investigation by the state, and the economic impact of the penalty on the liable person.

Amendment adopted by the necessary two-thirds.

The question now being adoption of the committee report of Ought to Pass with Amendment.

On a division vote, 146 members having voted in the affirmative and 63 in the negative, the committee report was adopted by the necessary two-thirds.

Ordered to third reading.

Rep. Hunt declared a conflict of interest on ***SB 519-FN***, and did not participate.

SB 522-FN, relative to licensing requirements for small quantity biodiesel producers and distributors and prohibiting the sale or delivery of biodiesel not meeting the state ASTM standard. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Michael G. Marsh for Ways and Means: This bill is one of three bills that came out of the commission established last year to recommend ways to promote the production and use of biodiesel fuel in the state. This bill makes it easier for producers of bio-diesel to operate

here. Currently, we have no formal definition of bio-diesel, and producers fall under the laws that relate to other motor vehicle fuels. These provisions include a requirement that producers post a minimum \$10,000 bond with the department of safety. The bill provides a definition for bio-diesel and establishes technical standards for its production. The bill removes the requirement that producers of less than 10,000 gallons per month of bio-diesel post a bond. To protect buyers of bio-diesel, producers who sell their fuel are required to periodically test it to ensure it meets the technical specification established. Currently distributors are required to pay the road toll on all bio-diesel fuel. The bill makes it possible to claim back that portion of the per gallon road toll that is not used for vehicles operating on public roads. The committee believes this bill is an important step in the production and use of bio-diesel in the state and that this is a laudable goal. Vote 17-1.

Amendment (1543h)

Amend RSA 260:36-d, V as inserted by section 1 of the bill by replacing it with the following:

V. The license shall be unassignable and shall remain in full force and effect on a fiscal year basis from July 1 through June 30 unless cancelled, suspended, or revoked. The license shall be renewable upon completion of an application renewal form, provided that the distributor is in good standing with the division. The department shall furnish each licensee, monthly, a list of current licenses issued under this section.

Amend RSA 260:43-b as inserted by section 4 of the bill by replacing it with the following:

260:43-b Additional Recordkeeping Requirements for Biodiesel Distributors. In addition to the retention of records pursuant to RSA 260:43, biodiesel distributors shall maintain and keep for a period of 4 years records sufficient to demonstrate that all biodiesel sold within the state meets the applicable ASTM fuel quality standard for biodiesel, D6751. Failure to maintain appropriate records or failure to demonstrate compliance with the applicable ASTM standard may result in loss of license issued pursuant to RSA 260:36 and RSA 260:36-d.

Amendment adopted by the necessary two-thirds.

Committee report adopted by the necessary two-thirds and ordered to third reading.

SB 532, relative to administrative fines under the indoor smoking act. **OUGHT TO PASS WITH AMENDMENT.**

Rep. William A. Hatch for Ways and Means: This bill gives the department of health and human services the statutory authority to impose administrative fines for persons violating the indoor smoking act. This corrects the oversight committed when the act was passed without authorizing this ability to do so. It was amended to limit the fine to a maximum of \$200 per day. Vote 14-2.

Amendment (1512h)

Amend RSA 155:78 as inserted by section 4 of the bill by replacing it with the following:

155:78 Administrative Fines. The commissioner, after notice, pursuant to rules adopted under RSA 541-A, may impose an administrative fine of not more than \$100 per day for a first offense and not more than \$200 per day for each subsequent offense upon any person who violates any provision of this subdivision or rules adopted under this subdivision. Appeals from a decision of the commissioner shall be in accordance with RSA 541. Any administrative fine imposed under this section shall not preclude the imposition of further penalties or administrative actions under this subdivision. The sums obtained from the levying of administrative fines under this section shall be forwarded to the state treasurer to be deposited into the general fund.

Amendment adopted by the necessary two-thirds.

The question now being adoption of the committee report of Ought to Pass with Amendment. Rep. Vaillancourt yielded to questions.

Committee report adopted by the necessary two-thirds and ordered to third reading.

BILLS REMOVED FROM CONSENT CALENDAR

SB 492, relative to persons designated to fill vacancies on the ballot. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Shawn N. Jasper for Election Law: SB 492 came to us as bill to insure that if a person is nominated by their party to fill a vacancy and they have already filed for an incompatible office that they would have to withdraw from the office they had originally filed for. We are recommending that the bill be amended to make it clear that the person nominated by a party must accept that nomination. Two further amendments were introduced at the public hearing. The first, designed to save the time it now takes to count the many scattered write in votes at town and school district elections, provides that if a person wishes to have any write-in votes they may have received counted, they must declare their candidacy to the clerk, prior to the closing of the polls. This requirement would be posted at the polling places. Also, because existing law does not require a person receiving write-in votes to declare their candidacy to the clerk, it unfairly discriminates against all other candidates who are required to arrange their work schedule to go down to town hall during business hours, appear before the clerk, complete a declaration of candidacy and pay a filing fee (or, if a candidate who is not a member of a political party, are required to collect numerous signatures to get on the ballot). This amendment would remedy such discrimination, at least for town and school district elections. The final amendment was crafted to address the issue of the secretary of state being required to spend many weeks of his time on recounts, in which the candidate requesting the recount has no hope of overturning the results. There is only one purpose for a recount, under our law, and that is to determine the winner of an election. Precisely because we have a paper trail and an open system, we have been targeted by those individuals who wish to test their every election theory, using the secretary of state's office as their laboratory. What the amendment does is to disallow those who have no chance of overturning election results from holding the secretary of state hostage. In a presidential primary, where there are delegates at stake, a candidate must have received at least 9 percent of the vote to have standing to request a recount. In any other state election a candidate must be within 20 percent of the winning candidate to request a recount. We have also made it clear that the secretary of state may require that the estimated cost of the recount be paid for in advance. Vote 10-1.

Amendment (1223h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to persons designated to fill vacancies on the ballot, relative to write-in candidates, and relative to recount requests by candidates.

Amend the bill by replacing all after the enacting clause with the following:

1 Vacancies Among Primary Candidates; No Declaration Filed; Incompatible Offices.

Amend RSA 655:32, I to read as follows:

I. In case no declaration shall be filed by a candidate for any nomination to be voted for at a primary, the nomination may be made by the appropriate party committee as provided in this section. The appropriate party committee shall notify the secretary of state in writing of a person ~~[they designate]~~ **it designates** to fill the vacancy. The person so designated ~~[shall]~~ **may accept the nomination by**, on or before the Wednesday following the expiration of the period for filing declarations of candidacy as provided in RSA 655:14 ~~[file]~~, **filing** with the secretary of state a declaration of candidacy as provided in RSA 655:17. **Any candidate accepting a nomination under this paragraph who has already filed for an incompatible office as defined in RSA 655:10 shall withdraw the prior filing. Any vacancy created by the withdrawal of a filing may be filled pursuant to this section.** If the candidate is designated for the office of governor, councilor, state senator, or state representative, he **or she** shall also file on or before the Wednesday following the

period for filing declarations of candidacy the appropriate affidavit as provided in RSA 655:29. Any candidate so designated by a party committee who has not filed all the forms required by this section within the required period of time shall not have his *or her* name printed on the state primary election ballot for that office.

2 Pre-Election Procedure; Statutes Posted. Amend RSA 658:29 to read as follows:

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place at all elections: RSA 654:7-a, RSA 654:7-b; RSA 659:27, RSA 659:30, RSA 659:31, RSA 659:32, RSA 659:34, RSA 659:35, RSA 659:37, RSA 659:38, RSA 659:40, RSA 659:41, ***RSA 659:60-a***, RSA 659:103; RSA 666:4, RSA 666:5, RSA 666:8. In addition, the secretary of state shall include any other statutes or regulations that are required to be posted by state or federal law. The secretary of state may also include statutes or regulations that, in the secretary of state's judgment, would aid a voter in casting a vote or in contacting the appropriate official if the voter believes that his or her voting rights are being violated.

3 New Section; Counting of Votes; Write-In Candidates. Amend RSA 659 by inserting after section 60 the following new section:

659:60-a Write-In Candidates.

I. A person running for a municipal or school district office as a write-in candidate shall notify in writing the town, city, or district clerk of his or her candidacy prior to the closing of the polls on election day.

II. Write-in votes cast for persons who have provided notice of their candidacy under paragraph I shall be counted and totaled in the same manner as votes cast for candidates listed on the ballot. For write-in votes cast for persons who have not provided notice under paragraph I, the moderator shall count and total all such write-in votes cast for each office and announce the total as "total write-in votes," "other write-in votes," or "miscellaneous write-in votes" for that office.

4 State General Election Recounts; Eligibility. Amend RSA 660:1 to read as follows:

660:1 Application. Any candidate for whom a vote was cast for any office at a state general election may apply for a recount, ***provided that the difference between the votes cast for the applying candidate and a candidate declared elected is less than 20 percent of the total votes cast in the towns which comprise the office to be recounted.*** The application shall be made in writing to the secretary of state and shall be submitted no later than the Friday following the election. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2.

5 State General Election Recounts; Fees. Amend RSA 660:2, IV to read as follows:

IV. If the difference between the vote cast for the applying candidate and a candidate declared elected shall be greater than 3 percent of the total votes cast in the towns which comprise the office to be recounted, the candidate shall pay the fees as provided in RSA 660:2, III and shall agree in writing with the secretary of state to pay any additional costs of the recount. ***The secretary of state may require that the applying candidate pay the estimated additional costs of the recount prior to commencing the recount.***

6 Number of Recounts. Amend RSA 660:3 to read as follows:

660:3 Number of Recounts. Any candidate for whom a vote was cast for any office at a state general election, ***provided that the difference between the votes cast for the applying candidate and a candidate declared elected is less than 20 percent of the total votes cast in the towns which comprise the office to be recounted,*** shall be entitled to apply for only one recount under this chapter, and the declaration made by the secretary of state under RSA 660:6 shall be final, subject to a change in the result following an appeal to the ballot law commission, as provided in RSA 665:8, II. If more than one candidate for the same office in the same district applies for a recount under this chapter, and a recount is completed, such applications shall not result in a second recount.

7 Primary Recounts; Eligibility. Amend RSA 660:7 to read as follows:

660:7 Application. Any person for whom a vote was cast for any nomination of any party at a state ~~[or presidential]~~ primary may apply for a recount, ***provided that the difference between the votes cast for the applying candidate and a candidate of that party declared nominated is less than 20 percent of the total votes cast for candidates of that party in the towns which comprise the office to be recounted. Any person receiving at least 9 percent of the votes cast in any party's presidential primary may apply for a recount.*** The application shall be made in writing to the secretary of state and shall be submitted no later than the Friday after the primary for a recount of all ballots cast for such nomination. Each candidate requesting a recount shall pay the secretary of state fees as provided in RSA 660:2.

8 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill:

I. Requires that a person accepting the designation by a party to fill a vacancy who has already filed for an incompatible office withdraw the prior filing.

II. Requires the moderator to count total write-in votes for an office, rather than votes for every person written in, unless a person has provided notice of a write-in candidacy.

III. Limits the ability of candidates to request recounts.

IV. Authorizes the secretary of state to require advance payment of certain additional recount costs.

Rep. Winters spoke against.

Rep. Pierce spoke in favor and yielded to questions.

Rep. McRae moved to divide sections 2 and 3.

Motion adopted by the necessary two-thirds.

The question now being adoption of sections 2 and 3 of committee amendment (1223h).

Rep. Lockwood spoke against.

Rep. Jasper spoke in favor and yielded to questions.

On a division vote, 86 members having voted in the affirmative and 113 in the negative, the motion to adopt sections 2 and 3 failed lacking the necessary two-thirds.

The question now being adoption of the remainder of committee amendment (1223h).

Rep. Hall spoke against and yielded to questions.

Rep. Jasper spoke in favor.

On a division vote, 171 members having voted in the affirmative and 30 in the negative, the remainder of committee amendment (1223h) was adopted by the necessary two-thirds.

Committee report adopted by the necessary two-thirds and ordered to third reading.

***SB 341*, prohibiting digital advertising devices on certain highways. OUGHT TO PASS WITH AMENDMENT.**

Rep. Dale R. Sprague for Public Works and Highways: It is the position of the majority of the committee that the bill, as presented to the committee, would restrict the future technology of digital off-premise signs. The amendment addresses the safety and esthetics concerns brought up in testimony by allowing LED lighting, but prohibits flashing, scrolling, intermittent, moving lights, or animation except in amber alerts or public service information which would be invaluable in the help of rescuing abducted children, or any fugitive FBI warnings. Additionally, the amendment only pertains to off-premise signs located on divided, limited access highways leaving the remaining roads to continue to be governed by the local city/town advertising laws already in place. Vote 11-5.

Amendment (1707h)

Amend RSA 236:74, III as inserted by section 1 of the bill by replacing it with the following:

III. Lighting.

(a) Except as provided in subparagraph (b), advertising devices located in federal highway or turnpike adjacent areas may be lighted, subject [~~only~~] to such restriction with respect to devices to be erected as may from time to time be prescribed by the commissioner.

(b) Advertising devices which contain, include, or are illuminated by any flashing, scrolling, intermittent, or moving light or lights, or video or animation, are prohibited on divided, limited access highways, except those devices giving emergency alerts or public service information such as time, date, temperature, weather, traffic, road conditions, or similar information. Brightness shall be adjusted in response to changes in light levels so that the signs are not unreasonably bright for the safety of the motoring public.

AMENDED ANALYSIS

This bill prohibits flashing, scrolling, intermittent, or moving lights on advertising devices on certain highways.

Amendment adopted by the necessary two-thirds.

Committee report adopted by the necessary two-thirds and ordered to third reading.

RESOLUTION

Rep. Wallner offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, May 21st at 10:00 a.m.
Adopted.

LATE SESSION

Third reading and final passage

SB 342-FN-L, establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing.

SB 482, relative to ethical standards for volunteer service in the executive branch.

SB 381, relative to conservation commissions.

SB 383, establishing a commission to develop a plan for the expansion of transmission capacity in the north country.

SB 451, authorizing rate recovery for electric public utilities investments in distributed energy resources.

SB 310-FN, relative to changes to games of chance.

SB 317-FN, relative to the retail sale of tobacco products.

SB 328, relative to civil forfeitures for certain waste disposal violations.

SB 519-FN, imposing a per diem fine on dam owners and operators for failure to repair damage.

SB 522-FN, relative to licensing requirements for small quantity biodiesel producers and distributors and prohibiting the sale or delivery of biodiesel not meeting the state ASTM standard.

SB 532, relative to administrative fines under the indoor smoking act.

SB 492, relative to persons designated to fill vacancies on the ballot.

SB 341, prohibiting digital advertising devices on certain highways.

UNANIMOUS CONSENT

Reps. Solomon, John Thomas, Gottling, Dokmo and L'Heureux addressed the House.

MOTION TO PRINT REMARKS

Rep. Abbott moved that the remarks made by Rep. Solomon during unanimous consent, be printed in the Permanent Journal.
Adopted.

REMARKS

Rep. Solomon: Madam Speaker, thank you for letting me have unanimous consent and thank you members that are still here for staying this long. I've been - this is finishing out my third term in this great House and has been a real experience for me; coming here somewhat blind and blinder in the last session and having lost half of my hearing in each ear from going on that Legislative shoot. They call me Dead-Eye Pete. I've had, many of you might know and some don't, a lot of medical issues this session having been diagnosed with colonitus, which is blockage of the ducts. They constrict and it doesn't flow to the channels of the.....maybe I should be talking to a doctor in the house. It affects the gall bladder and having had a lot of stents put in over this last year and year before, they say they cannot continue doing that and have suggested that perhaps I might be looking at a liver transplant. I feel I can't carry on. It takes me 175% just to get 100% so I will not be running for my fourth term. Fortunately, I am at the bottom of the list, not on the top of the list which kind of makes you feel better that I rate as a six and it goes to forty something. I am lucky in that aspect that I will not have to have something drastic done right away, but I have to be careful and watch my health. It just seems this is the end of my term in the New Hampshire House and it's been great. I would like to thank my helpers that I call my personal staff: the nurses, Ellen Neilley and Diane, Deb Nielson who kept a sharp eye on me and of course the Clerk, Karen Wadsworth, who helped me out a lot. I enjoyed being on the Fish and Game committee all of those times, the last three terms. I really wanted to accomplish something on that committee and I think I helped. Anybody that I have forgotten, I apologize, but this is why I am not going to continue in this great House and I thank you for the privilege.

RECESS MOTION

Rep. Wallner moved that the House stand in recess for the purpose of enrolled bill amendments, enrolled bill reports and receiving Senate messages.
Adopted.

The House recessed at 5:15 p.m.

RECESS

(Rep. Daniel Eaton in the Chair)

ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 173, 295, 589, 678, 1127, 1129, 1132, 1141, 1165, 1204, 1234, 1235, 1276, 1305, 1313, 1349, 1351, 1378, 1402, 1410, 1414, 1456, 1508, 1513, 1533, 1568, 1607, 1619 and 1641 and Senate Bills numbered 303, 312, 315, 323, 336, 350, 378, 398, 399, 400, 407, 409, 415, 426, 445, 450, 453, 475, 478, 480, 488, 499, 523, 538 and 540 and Senate Joint Resolution numbered 1.

Rep. Hager, Sen. D'Allesandro for the Committee

ENROLLED BILL AMENDMENT

SB 459, establishing an advanced manufacturing education advisory council. (Amendment printed SJ 5-15-08)
Adopted.

RECESS

(Rep. Spratt in the Chair)
ENROLLED BILL AMENDMENT

SB 352-FN, relative to shoreland protection. (Amendment printed SJ 5-15-08)
Adopted.

RECESS

(Rep. Weber in the Chair)
ENROLLED BILL AMENDMENTS

HB 159, establishing an interbranch criminal and juvenile justice council.

Amendment (1817-EBA)

Amend RSA 651-E:2, I(h) as inserted by section 1 of the bill by replacing line 1 with the following:

(h) The director of the division of juvenile justice services, department of health and human

Amend RSA 651-E:2, I(j) as inserted by section 1 of the bill by replacing it with the following:

(j) The director of police standards and training, or designee.

Amend RSA 651-E:2, I(v) as inserted by section 1 of the bill by replacing it with the following:

(v) The chairperson of the governor's commission on alcohol and drug abuse prevention, intervention, and treatment services, or designee.

Adopted.

HB 595-FN, requiring the commissioner of the department of corrections to adopt rules establishing a policy on and procedures for an internal clemency board to review and make recommendations on requests for sentence modifications.

Amendment (1735-EBA)

Amend the title of the bill by replacing it with the following:

AN ACT requiring the commissioner of the department of corrections to adopt procedures establishing a policy on and procedures for an internal clemency board to review and make recommendations on requests for sentence modifications.

Adopted.

HB 702, relative to continued jurisdiction in child protection cases.

Amendment (1792-EBA)

Amend RSA 169-C:4, II-a as inserted by section 1 of the bill by replacing line 7 with the following:

revocation of consent and shall close the case. If a party objects, the court may, after

Amend RSA 169-C:34, V-a as inserted by section 2 of the bill by replacing line 3 with the following:

offer voluntary services to any child who prior to his or her eighteenth birthday was found to be

Adopted.

HB 759-FN, relative to administration and enforcement of banking laws.

Amendment (1838-EBA)

Amend section 5 of the bill by replacing line 3 with the following:

361-A:3-b Prohibitions.

Amend the introductory paragraph of RSA 397-A:1, IV as inserted by section 14 of the bill by deleting lines 4 through 13.

Amend section 54 of the bill by replacing lines 1 and 2 with the following:

54 New Paragraph; Record Keeping. Amend RSA 399-G:12 by inserting after paragraph III the following new paragraph:

Amend section 58 of the bill by replacing line 1 with the following:

58 New Paragraph; Powers of the Commissioner. Amend RSA 399-G:19 by inserting after
Adopted.

HB 858-FN, relative to discount medical plan organization.

Amendment (1803-EBA)

Amend the title of the bill by replacing it with the following:

AN ACT relative to discount medical plan organizations.

Amend section 1 of the bill by replacing line 1 with the following:

1 New Chapter; Discount Medical Plan Organizations. Amend RSA by inserting after
chapter

Amend section 1 of the bill by replacing line 4 with the following:

DISCOUNT MEDICAL PLAN ORGANIZATIONS

Amend section 3 of the bill by replacing lines 2 and 3 with the following:

organization on or before the effective date of this act shall have 6 months following the
effective date of this act to come into compliance with the requirements of this act.

Adopted.

HB 1367, relative to the conversion to a new state financial accounting and statewide budget
system.

Amendment (1799-EBA)

Amend paragraph I of section 1 of the bill by replacing line 5 with the following:

ERP system shall consist of all related subsystems including, but not limited to, financial

Amend paragraph II of section 1 of the bill by replacing line 1 with the following:

II. The purpose of this act is to facilitate an efficient and effective conversion to this
new

Amend paragraph I of section 2 of the bill by replacing line 1 with the following:

I. Implementation of a new state financial accounting, financial reporting, and
financial and human

Amend section 5 of the bill by replacing lines 1-3 with the following:

5 Budget Presentation Format. Amend RSA 9:8-a, I to read as follows:
Adopted.

HCR 15, commemorating the commissioning of the USS New Hampshire.

Amendment (1802-EBA)

Amend the fourth paragraph after the resolving clause by replacing line 1 with the following:

That copies of this resolution be sent to the Secretary of the United States Department of
Adopted.

SENATE MESSAGES

CONCURRENCE

HB 847, relative to general rules for vessels operating on water.
HB 901, relative to nondriver's identification cards.
HB 1136, relative to automated external defibrillators.
HB 1145, designating the Senator Otto Oleson Scenic Overlook in Jefferson.
HB 1203, relative to bicycles.
HB 1270, relative to limiting certain future interests in real property.
HB 1288, allowing pharmacists to administer influenza vaccines.
HB 1289, relative to court-ordered placements for a child in need of services and relative to permanency hearings in juvenile cases.
HB 1301, relative to the definition of service dogs.
HB 1304, authorizing Plymouth state university to award doctoral degrees.
HB 1321, relative to the inspection of juvenile detention facilities.
HB 1332-L, defining "hauler" of solid waste and requiring haulers to register with the department of environmental service, and relative to the weight and measurement of solid waste.
HB 1343, prohibiting the placing on file or masking of convictions incurred by holders of commercial driver licenses or persons required to hold such licenses.
HB 1353, extending the commission to study issues relative to groundwater withdrawal.
HB 1370, establishing a pilot program for an integrated juvenile justice information sharing system.
HB 1404-FN, relative to liability insurance for passenger rail service.
HB 1424, relative to notice of meetings of county conventions.
HB 1426-FN-A, relative to motor fuel import fees.
HB 1441-L, relative to use of the terms "selectwoman" and "selectperson."
HB 1453, relative to civil liability for damage to protective barriers.
HB 1487, establishing a committee to study practice by advanced dental hygiene practitioners and ways to increase access to oral health care.
HB 1492, relative to prescriptions under the controlled drug act.
HB 1581-FN-L, relative to the formation of stormwater utility districts.
HB 1634, establishing the New Hampshire council on autism spectrum disorders.
HB 1644-FN-A, establishing a Coos county job creation tax credit.
HB 1651, allowing municipalities in Coos county to offer property tax exemptions to foster commercial and industrial construction.

NONCONCURRENCE

HB 241, relative to permissible campaign contributions by business organizations and labor unions.
HB 474, excluding septic and sewage treatment facilities from the tax exemption for water and air pollution control facilities.
HB 841, relative to the appointment of parenting coordinators and establishing the family mediator and parenting coordinator certification board.
HB 1180, relative to the definitions of "law enforcement officer" and "judicial officer" under the capital murder law and establishing a commission to study the death penalty in New Hampshire.
HB 1192, relative to the solemnization of marriage.
HB 1261, establishing a commission to investigate a program in which senior year of high school may be spent at a community college.
HB 1281, prohibiting public schools from requiring health insurance as a condition of enrollment except if health insurance is a requirement of the student's program of study.
HB 1298-FN, making changes to the veterinary/medical/optometric education program.
HB 1420, relative to the applicability of zoning ordinances to auto salvage yards.
HB 1435, requiring certain food programs to comply with Centers for Disease Control/Institute of Medicine standards.

HB 1470, relative to vehicular pursuits by police officers.

HB 1536, relative to periodic payments of judgments.

REFERRED FOR INTERIM STUDY

HB 352-L, relative to trust funds for public school educational enhancement.

HB 1201, allowing communities to conduct point of dispensing exercises to test emergency management operations plans, allowing qualified health professionals to prescribe and administer flu vaccine during such exercises, and granting immunity to such qualified health professionals.

HB 1538, relative to mineral extraction, mining, and reclamation in New Hampshire.

LAIID ON THE TABLE

HB 373, relative to unlawful possession of alcohol by a minor.

HB 1222, prohibiting writing a text message while driving.

HB 1264, relative to prohibiting ATV and trail bike use on state-owned rail trails acquired using federal funds.

HB 1429, relative to private landfills.

HB 1472, relative to workforce housing.

HB 1477, relative to cellular phone and satellite television records for child support enforcement.

CONCURRENCE WITH AMENDMENTS

SB 90-FN, relative to the penalty for impersonating a law enforcement officer.

SB 117-FN, relative to fireworks display permits and the position of permissible fireworks inspector.

SB 173, relative to regulation of private postsecondary career schools.

SB 309-FN, relative to the regulation of amateur and professional fighting sports by the boxing and wrestling commission.

SB 318-FN, establishing a commission to study the creation of an animal care worker classification.

SB 372, relative to membership of the heating system certification advisory committee.

SB 390, establishing a suicide prevention council.

SB 395, establishing a commission to review New Hampshire's statutes on human immunodeficiency virus education, prevention, and control.

SB 420, relative to criminal background checks of health care facilities and certain nurse applicants.

SB 440, relative to requiring occupational boards and commissions to include relevant military experience or training in satisfying requirements for engaging in a regulated profession.

SB 487, clarifying the law regarding bail pending appeal.

SCR 6, urging the federal government to create a simplified process for short-term admissions to nursing homes for the purpose of respite care.

SCR 11, supporting the application of Taiwan for observer status at the World Health Organization.

RECESS